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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from China, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72110 (E) 240102 240102

Annex

Letter dated 22 December 2001 from the Chargé d'affaires a.i. of the Permanent Mission of the People's Republic of China to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit herewith the report of the Government of the People's Republic of China on the implementation of Security Council resolution 1373 (2001) concerning counter-terrorism.

(*Signed*) **Shen** Guofang
Chargé d'affaires and Ambassador
Permanent Mission of China

Enclosure

Report by China on the implementation of Security Council resolution 1373 (2001)

[Original: Chinese]

The Government of China firmly advocates combating terrorism in all its forms, and supports the strict implementation of Security Council resolutions. Immediately following the adoption of Security Council resolution 1373 (2001), the Ministry of Foreign Affairs of China requested all Government departments, the People's Governments of provinces, municipalities and autonomous regions, and the Governments of the Hong Kong and Macao Special Administrative Regions to carry out a comprehensive, earnest and rigorous implementation of all provisions of the resolution. At present, all departments, local Governments and the Governments of the Hong Kong and Macao Special Administrative Regions have taken appropriate measures to implement this resolution. China is also willing to study and learn from the experiences and methods of other countries in order to evaluate and perfect the measures it takes in this area.

It should be noted that in accordance with the "one country, two systems" principle, the central Government of China is responsible for managing defence and foreign relations matters involving the Hong Kong and Macao Special Administrative Regions, while those regions enjoy their own administrative, legislative, independent judicial and final sentencing authority. The Governments of the Special Administrative Regions are responsible for maintaining public order in their regions, and, upon the authorization of the central Government, can also handle relevant external matters at their own discretion. For this reason, the specific measures taken by the central Government and the Governments of the Hong Kong and Macao Special Administrative Regions with regard to implementing Security Council resolution 1373 (2001) may differ. Consequently, the measures taken in this regard by the central Government and the Governments of the Hong Kong and Macao Special Administrative Regions will be treated separately in this report.

In accordance with the substantive inquiries of the Counter-Terrorism Committee, measures taken by the central Government authorities with regard to the implementation of Security Council resolution 1373 (2001) will be treated first in this report, which follows:

1. Resolution 1373 (2001) operative paragraph 1:

Subparagraph (a) — Prevent and suppress the financing of terrorist acts.

(What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?)

– In recent years, the central Government of China has promulgated a series of laws and regulations concerning money-laundering, including measures for the regulation of bank accounts, measures for the regulation of overseas foreign-currency bank accounts, a notice concerning the regulation of large cash payments, rules concerning the registration and recording of large cash payments, and rules concerning the systematic use of genuine names in

individual savings accounts. In September 2001, the People's Bank of China set up a special anti-money-laundering task force charged with the unified leadership and deployment of anti-money-laundering operations throughout the Chinese banking system. Efforts are also being stepped up to revise regulations governing cash management and to set up a system to report suspicious cash transactions; a centre for overseeing financial transactions and payments to prevent money-laundering is under active development.

- In order more rigorously and effectively to combat criminal terrorist activities, the central Government authorities are considering revising the Criminal Law of the People's Republic of China in accordance with Security Council resolution 1373 (2001). The Standing Committee of the National People's Congress will meet from 24 to 29 December 2001 to debate drafts of the relevant revisions.

- Hong Kong is currently chairing the Financial Action Task Force on Money-Laundering. In order to implement Security Council resolution 1373, the Task Force has recently expanded the scope of its anti-money-laundering operations to include combating the financing of terrorist activities; the Hong Kong financial authorities have drafted regulations designed to stop the laundering of bribes and requested all relevant departments to undertake their strict implementation.

Subparagraph (b) — Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(What are the offences and penalties in your country with respect to the activities listed in this subparagraph?)

- Article 120 of the Criminal Law of the People's Republic of China clearly stipulates that whoever organizes, leads, and actively participates in a terrorist organization is to be sentenced to not less than three years but not more than 10 years of fixed-term imprisonment; other participants are to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or public surveillance. Whoever commits these offences and also commits murder, detonation of explosives, or kidnapping is to be punished according to the regulations for punishing multiple crimes. Articles 107 and 112 stipulate that financing criminal activities injurious to the security of the State is a criminal offence, and provide for appropriate penalties. All of the above regulations can be applied to the financing of terrorist activities.

- Under the laws of the Hong Kong Special Administrative Region, the financing of terrorism and related activities is indirectly classified as a criminal offence. Pending legislation will reclassify such activities as a specific category of criminal offence.

- Article 289 of the Penal Code of the Macao Special Administrative Region provides for prison terms of from ten to twenty years for those who launch, found, join or support terrorist groups or organizations. Whoever commits these offences in addition to murder, detonation of explosives, or release of toxic substances shall have the minimum or maximum penalty increased by

one third. Articles 286, 26, 27 and 22 of the Code stipulate that inciting, assisting or planning terrorist acts are punishable by law. Macao penal law thus directly and indirectly criminalizes any activity carried out in support of terrorism. The Special Administrative Region authorities are considering legislation specifically classifying financial assistance to terrorist activities a serious crime.

Subparagraph (c) — Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

(What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.)

- Major laws concerning the control of the sources of terrorist assets currently enforced by the central Government include the Law of People's Bank of the People's Republic of China and the Law of Commercial Banks of the People's Republic of China, as well as its regulations governing foreign exchange controls, management of the renminbi, savings deposits, and its interim regulations governing cash transactions.

- In accordance with the provisions of the Security Council resolution and of the relevant laws of China, the Chinese Ministry of Foreign Affairs has circulated a list of organizations and individuals suspected of involvement in terrorist activities compiled by the relevant Security Council sanctions committee among all Government departments, provincial, municipal and autonomous-region Governments, and the Governments of the Hong Kong and Macao Special Administrative Regions. The departments concerned have ordered all banks and financial institutions as well as the Chinese branches of foreign-owned banks to investigate the property holdings and capital movements of individuals and organizations on the list, and to freeze them immediately and report to the Government if any suspicious assets are discovered. The Ministry of Foreign Affairs has not yet received any situation reports in this regard, however. Overseas branch offices of Chinese commercial banks are carrying out their own investigations at the request of local regulatory authorities and will report the results.

- In the Hong Kong Special Administrative Region, any person who knows or suspects that a given property derives from a prosecutable crime, or that its use or apparent use involves a prosecutable crime, must report all relevant information to the police and the Joint Financial Intelligence Unit. The associated criminal acts need not have been committed in Hong Kong. This obligation is also incumbent upon attorneys and accountants.

The regulations governing organized and serious crimes and the pursuit and confiscation of the proceeds of narcotics trafficking promulgated by the Hong Kong Special Administrative Region stipulate that the financial assets of any person

accused of the crimes of laundering bribes and of engaging in terrorist activities can be immediately frozen. In accordance with the Hong Kong regulations concerning reciprocal legal assistance on criminal matters, the Special Administrative Region can also enforce court orders issued by overseas jurisdictions to confiscate the relevant financial assets of persons suspected of terrorism. The Government of the Special Administrative Region, in accordance with the circular promulgated by the central Government, has also transmitted a list of relevant individuals and entities to all its departments and ordered them to check their records and report any suspicious accounts and transactions to the Joint Financial Intelligence Unit. Moreover, the Government of the Special Administrative Region has proposed legislation allowing the freezing of all terrorist assets.

- The Code of Criminal Procedure and the framework for financial-system law of the Macao Special Administrative Region both provide procedural guidelines for freezing assets. The Government may legally promulgate a judicial order freezing any assets connected with or possibly connected with a given illegal act. Presently, the Government of the Special Administrative Region is proposing legislation providing for the automatic freezing of assets without the need for a court order, if it has been determined that the assets in question belong to terrorists. In accordance with the circular promulgated by the central Government, the Government of the Special Administrative Region has also requested the Macao financial authorities to check for terrorist assets on the basis of the list provided by the Security Council; to date no terrorists have been discovered.

Subparagraph (d) — Prohibit their nationals or any persons and entities within their territory from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

(What measures exist to prohibit the activities listed in this subparagraph?)

- The central Government has requested the Chinese companies and enterprises concerned to implement the relevant Security Council resolutions conscientiously and to refrain from engaging in economic or trade contacts of any kind with the Taliban. China also maintains strict vigilance with regard to postal items destined for or coming from Afghanistan via non-trade channels.
- The regulations regarding United Nations sanctions on Afghanistan of the Hong Kong Special Administrative Region prohibit payments to the Taliban, Osama bin Laden and persons or organizations connected with them. The Special Administrative Region also has proposed legislation broadening the relevant prohibitive measures to include all terrorists.
- Measures taken by the Macao Special Administrative Region relevant to this subparagraph have been covered in previous material provided under operative paragraph 1 of the resolution.

2. **Operative paragraph 2:**

Subparagraph (a) — Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

(What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?)

The Criminal Law, criminal procedure law, national security law and its implementation regulations, police law, regulations governing the use of police equipment and weapons by the People's Police, Martial Law and the law on assemblies, marches and demonstrations of the People's Republic of China all directly or indirectly criminalize and set penalties for organizing, leading or participating in terrorism and recruiting members of terrorist groups. Among these, the penalty provisions of Article 249 of the Criminal Law regarding the provoking of ethnic hatred and discrimination, Article 294 regarding the crimes of organizing, leading or actively participating in a criminal underworld organization and of entering China to develop an underworld organization, and Article 300 regarding the use of superstitious sects, secret societies and evil religious organizations to sabotage the implementation of the law, can also encompass the recruitment of members of terrorist groups.

- China has always strictly and responsibly fulfilled the obligations it has undertaken in the area of preventing the spread of terrorism. Not only has it adhered to the relevant international conventions, but it has also promulgated a series of export regulations strictly to prohibit relevant technology and resources from falling into the hands of terrorists. Articles 125, 127, 128, 130 and 151 of the Criminal Law all directly or indirectly criminalize supplying weapons to terrorists. China is also strictly enforcing the provisions of the Security Council sanctions resolutions regarding Afghanistan.

- Major legislation of the Hong Kong Special Administrative Region regarding the subject of this subparagraph includes Article 22 of the law on associations, which criminalizes incitement, enticement or invitation of others to become members of illicit mass organizations or to assist in the management of such organizations. The maximum penalty for the foregoing offences is HK$ 50,000 and a term of imprisonment of two years. This category can also be applied to the recruitment of members for terrorist organizations. The Hong Kong regulations governing the United Nations embargo on arms shipments to Afghanistan prohibit the supply of weapons to bin Laden and persons or organizations connected with him; additional legislation aimed at preventing weapons from falling into the hands of terrorists include the regulations governing imports and exports, weapons of mass destruction, firearms and explosives, hazardous items, weapons etc.

- As previously described, the Penal Code of the Macao Special Administrative Region directly or indirectly criminalizes providing any form of support to terrorist acts; this of course includes the recruitment of members for terrorist

groups, providing them with weapons, etc. Moreover, the Macao Special Administrative Region regulations governing firearms and explosives can be used to prevent weapons from falling into the hands of terrorists.

Subparagraph (b) — Take the necessary steps to prevent the commission of terrorist acts, including the provision of early warning to other States by exchange of information;

(What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?)

- The National Civil Aviation Administration has released urgent circulars regarding the strengthening of air security and effectively ensuring civil aviation security by positively preventing and resolutely dealing with violent or terrorist acts, and its notice on civil aviation security, jointly published with the Ministry of Public Security for the general public, has been publicized throughout the country by the news media. It calls for broadening the scope of security inspections, a higher rate of follow-up passenger body searches and baggage inspections for international flights, and a 100 per cent rate of baggage inspection as well as a total prohibition on knives of any kind for flights from the United States to Beijing and Shanghai and for all aircraft flying to the United States from China. It also calls for strengthening the work done to identify and detain suspects and checking the backgrounds of those detained, and timely cross-checking of detainee lists against that day's passenger manifests. It further calls for greatly increased rates of baggage inspections and manual body searching of passengers; the rate of such inspections and searches should never fall below 50 per cent, and a full check of all passengers and their baggage may be carried out when necessary on a given flight.

Following the events of 11 September 2001, in accordance with the circular released by the national Government departments concerned, the Chinese Customs authorities immediately dispatched urgent messages via facsimile transmission, calling on all port Customs agencies to improve the dynamics of spot inspections and cargo-manifest verification against container contents. In view of the occurrence of the spread of anthrax by post in some countries, the Customs authorities further requested all port Customs agencies to broaden the scope of their inspections of incoming postal and express-delivery mail and passenger baggage from overseas, especially for mail and passengers arriving from affected countries; if any suspicious items are found, the local quarantine inspection office is to be notified immediately and proper inspections carried out in close consultation with that office, with the results to be reported to the Customs authorities. Each Customs location was also requested to prepare safety equipment and protective gear for its staff, broaden the scope of its combat against terrorism and systematize and normalize its working procedures. The Chinese Customs authorities will cooperate with the World Customs Organization to broaden the scope of combat against terrorism and strengthen international customs cooperation.

- In the area of combating international terrorism, China has long maintained effective cooperation with other countries, especially within the framework of the Shanghai Cooperation Organization. Following the events of 11 September

2001, China has strengthened its relations with the countries in the Organization as well as with other affected countries.

- China has established a broad network of international judicial cooperation. To date, China has signed treaties of bilateral assistance in criminal and judicial matters with 26 countries; these treaties can be used in international cooperation in combating terrorist crimes. Moreover, in accordance with the relevant Chinese legislation and based on the principle of reciprocity, China can launch international cooperation with all countries in the areas of extradition and assistance in criminal and judicial matters.

- The Government of the Hong Kong Special Administrative Region maintains close relations with the consulates of all countries represented in Hong Kong, and exchanges information on terrorism with them. The Hong Kong police authorities have already strengthened the security provisions for a number of vulnerable locations in the Special Administrative Region that are potential targets of attack, as well as for critical infrastructure, and have formulated an effective mechanism for exchanging information on terrorists by means of the International Criminal Police Organization's Interpol Network as well as bilateral arrangements with overseas law-enforcement agencies. The Hong Kong police maintain close relations with other local and overseas law-enforcement agencies, closely following developing situations and continuously assessing threat levels. Other law-enforcement agencies in the Hong Kong Special Administrative Region also have effective intelligence-sharing arrangements with their overseas counterparts.

- The central Government maintains a semi-annual consultation mechanism with the Governments of the Hong Kong and Macao Special Administrative Regions in order to coordinate their efforts to combat crime. At the most recent meeting, the participants exchanged intelligence information, exchanged experiences and strengthened cooperation.

- Over the past several years, the Government of the Macao Special Administrative Region has strengthened the training of its counter-terrorism personnel. In September 2000, it held a joint counter-terrorism training programme with Portugal, and is currently planning cooperation with the United States in the area of counter-terrorism training. Macao is ready to work with all countries to strengthen cooperation against terrorism.

Subparagraph (c) — Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.)

- The People's Republic of China Law on the Control of Entry and Exit of Aliens clearly stipulates that aliens deemed capable of engaging in acts of violence or terrorism are to be denied entry.

- China has already established a broad international network of cooperation in judicial matters. To date, China has signed treaties of bilateral assistance in

criminal and judicial matters with 26 countries. In accordance with the relevant Chinese legislation and based on the principle of reciprocity, China can launch international cooperation with all countries in the areas of extradition and assistance in criminal and judicial matters.

- The provisions of the Hong Kong Special Administrative Region regulations on fugitives pertaining to the extradition of terrorists, those pertaining to judicial assistance in the regulations on mutual legal assistance in criminal matters, and those pertaining to denying terrorists entry to the Special Administrative Region in the regulations regarding entry all provide a legal basis for the Special Administrative Region to deny a safe haven for terrorists.

- The laws of the Macao Special Administrative Region deny criminals entry to the Special Administrative Region. The Special Administrative Region is currently considering strengthening the relevant legislation.

Subparagraph (d) — Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.)

- As previously stated, China has already established a broad international network of cooperation in judicial matters, and can launch international cooperation with all countries in the areas of extradition and assistance in criminal and judicial matters in order to prevent terrorists from using Chinese territory for committing terrorist acts against other States or their citizens.

- The People's Republic of China Law on the Control of Entry and Exit of Aliens clearly stipulates that aliens who forge, alter, fraudulently use, transfer or buy and sell visas or other credentials shall be prevented from entering or leaving China and shall be held accountable under the law. This provision can be used to prevent terrorists from leaving China to engage in terrorist activities.

- The class of offences of financing terrorism about to be expanded by Hong Kong will include providing support in Hong Kong to terrorist activities overseas. Hong Kong can provide legal assistance overseas in accordance with the regulations on mutual legal assistance in criminal matters. Criminals may be extradited under the regulations regarding fugitives. The Special Administrative Region also has effective entry laws and an entry-control list system to prevent terrorist activities in the Hong Kong Special Administrative Region. Moreover, the regulations governing weapons of mass destruction (controls on the provision of services) stipulate that the provision in Hong Kong of any service related to weapons of mass destruction constitutes a crime, thereby enabling the effective prevention of the use of the Special Administrative Region by terrorists to launch terrorist activities against other States or their citizens.

- Measures taken by the Macao Special Administrative Region with regard to the subject matter of this paragraph have been covered previously. The phrase

"threatens persons, groups of persons or the populace at large" contained in paragraph 2 of Article 289 of the Macao Penal Code regarding the definition of terrorist groups or organizations have been construed as including the people of other countries and regions. Moreover, the Penal Code also stipulates the right of extraterritoriality with regard to crimes committed overseas, and thus can also be applied to crimes committed overseas that fall under Articles 289 and 290 of the Penal Code.

Subparagraph (e) — Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

(What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.)

- Appropriate punishments are provided in the Criminal Law of the People's Republic of China for the crimes commonly committed by terrorists. The Chinese Government is currently considering amending the Criminal law so as to combat terrorist activities more stringently.
- In the Hong Kong Special Administrative Region, the crimes commonly committed by terrorists are generally classified as serious criminal offences and have been assigned appropriate penalties. For example, any person who violates Article 53 of the provisions on criminal offences by detonating an explosion capable of harming life or property can be imprisoned for life upon conviction under the prosecution procedures. Moreover, the Special Administrative Region plans to draw up counter-terrorism legislation in early 2002 that will outline the meaning of terrorist acts and set up new definitions of terrorist crimes, as well as determine penalties that will appropriately reflect the seriousness of such acts.
- The relevant measures taken by the Macao Special Administrative Region have already been covered in the answers to previous questions.

Subparagraph (f) — Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.)

- As previously stated, China can set up information exchanges with and legal assistance to other countries in accordance with its domestic legislation and with the provisions of the relevant bilateral agreements with those countries.
- Following the events of 11 September 2001, the central Government authorities strengthened internal counter-terrorism mechanisms and structures,

and the Ministries of Public Security, State Security, National Defence and Foreign Affairs have been conducting frequent coordination meetings to discuss ways to deal with relevant issues of counter-terrorism and unified deployment. Under the leadership of the Ministry of Foreign Affairs, the central Government has held discussions with the United States, Russia and India on counter-terrorism, and will also launch exchanges pertaining to counter-terrorism with members of the European Union and Arab countries.

- As previously stated, the Hong Kong Special Administrative Region can provide assistance to other jurisdictions in the areas of criminal investigations and litigation.

- The Macao Special Administrative Region is launching judicial cooperation with other jurisdictions in strict adherence to the Basic Law of the Macao Special Administrative Region and the Macao Code of Criminal Procedure.

Subparagraph (g) — Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

(How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?)

- The People's Republic of China Law on the Control of Entry and Exit of Aliens clearly stipulates that aliens deemed capable of carrying out violent or terrorist activities on Chinese territory shall be denied entry. This law also stipulates that aliens who forge, alter, fraudulently use, transfer or buy and sell visas or other credentials shall be prevented from entering or leaving China and shall be held accountable under the law. In accordance with these provisions, China has established an improved visa control system; the visa application and issuance process is simple but strict, and a great deal of effort has been put into enhancing the anti-counterfeiting technology of visas and credential documents. Aliens entering China are required to apply for visas at representative offices of the Ministry of Foreign Affairs, or at consulates or other overseas offices recognized by the Ministry. Applicants for Chinese visas must present genuine, currently-valid passports recognized by the central Government authorities, or other valid credential in lieu of a passport, along with other relevant identification documents. In view of the fact that terrorists could fraudulently obtain Chinese visas using forged documents, the relevant departments of the Chinese Government have for some time been cooperating with numerous other countries in exchanging samples of passports and other travel documents with them for purposes of reference. At the same time, China has used numerous anti-counterfeiting measures in the visas and other credential documents it produces, and has instituted advanced methods of document verification. In recent years, Chinese embassies and consulates overseas as well as related visa-issuing organs have been using high-technology adhesive-paper visas that are more resistant to counterfeiting, and have correspondingly enhanced the efficiency of document inspections at border entry points.

Following the events of 11 September 2001, China promptly closed its border with Afghanistan and intensified controls along its borders with Pakistan and neighbouring countries in the region. Strict controls have also been instituted in eastern-region ports, with entry and exit controls stepped up in order to prevent any terrorists from entering China. If the countries concerned provide the central Government authorities with accurate, corroborated information, China will deny visas to persons suspected of involvement with terrorism, and suspicious persons and cargo entering China will be subjected to rigorous inspections.

— The Hong Kong Special Administrative Region has installed an advanced computerized system capable of supporting the entry and exit inspection procedures of all its entry checkpoints. In accordance with the regulations governing passports of the Hong Kong Special Administrative Region, passports of the Special Administrative Region are issued only to Chinese citizens, legal residents of Hong Kong, and those holding permanent-resident identification credentials for Hong Kong. Applicants must undergo a personal interview at which their identity is checked against their personal identity documents. Special Administrative Region passports are high-quality documents produced under strictly controlled conditions, and contain numerous highly advanced and complex security features. At any time of the day or night, the passport system can provide rapid responses to official enquiries regarding the authenticity of a given passport. The Special Administrative Region already has numerous laws in effect criminalizing the forgery of travel documents issued under the regulations governing entry into the Special Administrative Region; the maximum penalty for such offences is a fine of HK$ 150,000 and a term of imprisonment of 14 years.

The process of issuing a Hong Kong identification card is also very rigorous. Applicants must produce documents proving that they meet the application criteria. If the applicant has entered the territory of the Special Administrative Region from elsewhere, his or her travel documents must show that he or she entered Hong Kong legally. The identity card displays the holder's personal data, photograph and left thumb print, and has numerous security features to make counterfeiting extremely difficult. The regulations governing personal records prohibit altering identity cards without legal authorization; violators are subject to fines of HK$ 25,000 and prison terms of two years' duration. Identity card data is stored in the computerized system for access at any time. Personnel responsible for examining travel documents receive excellent training and are provided with advanced equipment.

– As previously stated, Macao law allows certain designated persons to be denied entry. For example, all persons whose names appear on the list of terrorists provided by the Counter-Terrorism Committee of the Security Council will be refused entry without exception. Customs and immigration officials can read all documents released by the Government in that regard. The process of issuing a Macao travel document has also been perfected; it is divided into several phases, for each of which a separate person is responsible. The document contains the holder's photograph and fingerprints. The system for issuing Macao travel documents has been certified under the ISO 9001:2000 standard. Macao also has advanced technological means at its disposal for identifying forged documents.

Operative paragraph 3

Subparagraph (a) — Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

(What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?)

- Following the events of 11 September 2001, China has strengthened its counter-terrorist mechanisms and structures; frequent coordination meetings are held in which representatives of the Ministries of Public Security, National Security, National Defence and Foreign Affairs.

- Under the leadership of the Ministry of Foreign Affairs, the central Government has held discussions with the United States, Russia and India on counter-terrorism, and will also launch counter-terrorist exchanges with members of the European Union and Arab countries.

- As previously stated, China can set up information exchanges with and legal assistance to other countries in accordance with its domestic legislation and with the provisions of the relevant bilateral agreements with those countries.

- Law-enforcement organs in Hong Kong, including the police, customs and the immigration affairs agency, are all closely cooperating with their overseas counterparts in order to be able to exchange operational materials and information about all criminal activity in a timely manner. The police exchange information via the Interpol Web, while the Hong Kong customs actively takes part in the information-exchange channel provided by the Asia-Pacific Regional Intelligence Liaison Office (RILO) of the World Customs Organization.

- The Macao Special Administrative Region frequently sends delegations to participate in international conferences on the issuance of travel documents, entry control, combating money-laundering, bank supervision and law enforcement, in order to facilitate the exchange of information and expertise with the outside world. The Special Administrative Region maintains unofficial relations with the United States and the European Union, exchanging information on counter-terrorist policies and judicial matters. Moreover, in order to exercise improved controls over some dual-use items associated with weapons capable of inflicting large-scale casualties, the Special Administrative Region has set up a working group with the central Government. Other related measures have been treated in the answer to previous questions.

Subparagraph (b) — Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

(What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?)

– As previously stated, the central Government authorities have already established information-exchange and judicial-assistance arrangements with other countries.

Subparagraph (c) — Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

(What steps have been taken to cooperate in the areas indicated in this subparagraph?)

– Detailed descriptions have already been given above.

Subparagraph (d) — Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

(What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?)

– China has recently submitted to the United Nations the instrument of accession to the International Convention for the Suppression of Terrorist Bombings of 15 December 1997, and has also signed the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999. China has acceded to 10 of 12 international anti-terrorist conventions and is signatory to one; it will consider becoming a signatory to all anti-terrorism conventions as rapidly as possible. Moreover, China actively supported and participated in the work of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 on drafting a convention on the suppression of acts of nuclear terrorism and a comprehensive convention on international terrorism.

Subparagraph (e) — Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

(Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.)

– The current status of China's implementation of international conventions relating to terrorism has been described above. The anti-terrorist measures that it has currently put into effect and relevant actions that it will be taking conform with Security Council resolutions 1269 (1999) and 1368 (2001).

Subparagraph (f) — Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

(What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.)

Subparagraph (g) — Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

(What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.)

– With regard to the question of granting refugee status raised in subparagraphs (f) and (g), China consistently and strictly implements the provisions of the Convention Relating to the Status of Refugees of 28 July 1951, and of its Protocol of 4 October 1967.

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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Croatia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72116 (E) 180102 290102

Annex

[Original: English]

Letter dated 21 December 2001 from the Permanent Representative of Croatia to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions of my Government, I hereby have the honour of enclosing a letter from the Minister for Foreign Affairs, Tonino Picula and a report from the Republic of Croatia to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

My Government stands ready to provide the Committee with further reports or information as necessary or if requested to do so by the Committee.

I should be grateful if you would have the text of these letters and the enclosed report circulated as documents of the Security Council.

(*Signed*) Dr. Ivan **Šimonović**
Ambassador
Permanent Representative

Enclosure

Letter dated 21 December 2001 from the Minister for Foreign Affairs of Croatia addressed to the President of the Counter-Terrorism Committee

I have the honour to submit, pursuant to paragraph 6 of Security Council resolution 1373 (2001), the initial report of the Government of the Republic of Croatia on the implementation of United Nations Security Council resolution 1373 (2001) concerning combating terrorism.

(*Signed*) Tonino **Picula**

REPORT OF THE REPUBLIC OF CROATIA PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1373 (2001) OF 28 SEPTEMBER 2001*

* The annexes are on file with the Secretariat and are available for consultation.

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I. INTRODUCTION

1. The present report is submitted pursuant to Security Council resolution 1373 (2001) of 28 September 2001, by which the Security Council called upon all States to report to the Counter-Terrorism Committee, no later than 90 days from the date of adoption of the resolution, on the steps they have taken to implement this resolution.

2. This report spells out measures undertaken by the Republic of Croatia for the implementation of Security Council resolution 1373 (2001), as well as other actions undertaken for the suppression of international terrorism. It is structured in the following way: (i) Introduction; (ii) Croatia's position on international terrorism; (iii) Implementation of Security Council resolution 1373 (2001); (iv) Other measures and actions taken for suppression of international terrorism; (v) Financial and Technical Assistance; (vi) Conclusion; Annex I - Croatia's status in international legal instruments regarding international terrorism; Annex II - Criminal Code; Annex III - Criminal Procedure Act; Annex IV - Law on the Prevention of Money-Laundering; Annex V - Act on the Rules about the Manner and Terms of the Reporting to the Anti Money-Laundering Department and the Record Keeping of the Gathered Information; Annex VI - Law on the Office for Combating Corruption and Organised Crime; VII - Law on Movement and Residence of Foreigners.

3. The introduction provides a legal basis for the submission of the report, and outlines the main objective and points of each part of the report. The second part summarises the general position of the Republic of Croatia on international terrorism and confirms its political commitment to the full eradication of international terrorism. The third part, which is prepared in accordance with the guidelines provided by the Counter-Terrorism Committee, contains a survey of actions and measures taken by the Republic of Croatia in the implementation of resolution 1373 (2001), as well as the status of Croatia's legislation concerning international terrorism and intentions of introducing further amendments to enable the full implementation of Security Council resolution 1373 (2001). The fourth part spells out other measures and action undertaken by the Republic of Croatia, as well as plans for further action. The fifth part contains specific requests for technical and financial assistance. Finally, the conclusion provides Croatia's assessment on actions already taken in implementing resolution 1373 (2001), and resolve to combat international terrorism on a long-term basis at the national, regional and global level.

II. CROATIA'S POSITION ON INTERNATIONAL TERRORISM

4. Terrorism constitutes a threat to the fundamental principles of international order, to the shared values of freedom, peace, democracy, human rights, justice and security of humankind. It is a global concern that largely affects everyone, from individual victims to states. Terrorist acts in all forms and manifestations, which are committed regardless of when, where or by whom, directly impinge upon the security and stability of the international system as a whole.

5. Recently, we have witnessed an upsurge in terrorist activities with all their destructive consequences. The threat of international terrorism has re-entered our every-day lives in the most brutal way, and is conducive to generating fear amongst the general population. The killing and suffering of innocent individuals has continued, and even intensified. This situation gives rise to concern and demands intensive and well orchestrated international efforts in combating this evil. Terrorism requires an immediate response that must be effective and resolute, with a preventive and deterrent effect. The root causes of terrorism should be addressed, taking into account economic, social, political and other factors, so as to eliminate the breeding ground for recruiting terrorists and conditions that enable terrorist organisations to win sympathy and support.

6. The Republic of Croatia is fully committed to co-operating with neighbouring countries, regional organisations, as well as with the United Nations and its Member States, and particularly with the Counter-Terrorism Committee established by the Security Council resolution 1373 (2001), in order to combat international terrorism more effectively. The Republic of Croatia is ready to contribute to the overall international efforts in

fighting terrorism, in accordance with its own capacities, and by ensuring its own security and stability. The Republic of Croatia supports actions undertaken so far in accordance with relevant Security Council resolutions, in particular resolutions 1268 (1999) and 1373 (2001), as well as the United Nations Charter, aimed at suppressing and eradicating international terrorism.

7. The Republic of Croatia firmly rejects any collective responsibility for international terrorism, as well as any identification of terrorist groups with any nation, religious or ethnic community. It also believes that the respect for human rights and freedoms should be ensured in the legitimate fight against international terrorism. The fight against terrorism represents a fight for the right of every individual, community, peoples and way of life to live in harmony with one another. The Republic of Croatia wishes to see the gap that exists in the international legal framework concerning the fight against international terrorism filled out with a comprehensive convention on international terrorism which would reflect the above-mentioned concerns and guide states towards the achievement of a common goal, *i.e.* the eradication of terrorism. Accordingly, the Republic of Croatia calls for the speedy finalisation of negotiations for a Comprehensive United Nations Convention on International Terrorism.

8. The Croatian Parliamentary Committee for Domestic Policy and National Security and the Committee for Foreign Policy adopted on 18 October 2001 the Conclusions by which they rendered their full support to the Government's activities in suppressing all forms and manifestations of terrorism. Both Committees welcomed the position of the Government expressed in the Statement of 4 October 2001, and additional measures to be undertaken by the Government. The Parliamentary Committees also urged the Croatian Parliament to adopt the Strategy on National Security as a basic document for improving national security, including the infrastructure for the fight against terrorism. They emphasised the necessity of establishing the Council of National Security and a Co-ordinating Body for the Suppression of Terrorism. The Co-ordinating Body would include representatives from the President's Office, Parliament and Government.

9. President Stjepan Mesić, speaking in Bratislava, Slovakia, on 25 September 2001, and during the Regional Conference on Combating Terrorism in November in Warsaw, elaborated a set of fundamental principles for future actions of the anti-terrorist coalition, thereby clearly expressing Croatia's resolve to actively participate in international counter-terrorism efforts.

10. The Government of the Republic of Croatia strongly condemned the September 11th terrorist attacks on the United States, and expressed its support and solidarity with the anti-terrorist coalition and the commitment of its members to continue with the efforts to combat and eradicate international terrorism. Furthermore, the Government in its Statement of 4 October 2001, expressed its resolve to actively contribute, in accordance with its political and economic capabilities, to the efforts of the international community aimed at the suppression of international terrorism. The Government of the Republic of Croatia reiterated its readiness for comprehensive co-operation with the anti-terrorist coalition by its Conclusions of 15 November 2001. The Conclusions express the willingness of the Government to offer humanitarian aid to Afghan people, as well as urgently consider any requests for support, such as the logistical support, the use of airspace, airports and ports of the Republic of Croatia by the anti-terrorist coalition.

11. The Government established a Crisis Headquarters with the task of co-ordinating the overall activities in crisis situations, including in the case of a terrorist attack. The Crisis Headquarters is chaired by the Deputy Prime Minister.

12. On 20 October 2001, in his address to the European Conference in Brussels, Foreign Minister Tonino Picula emphasised the importance of Security Council resolution 1373 (2001) as a "globally binding platform against terrorism". Both President Mesić and Minister Picula, while attending the 56th session of the UN General Assembly in New York, reiterated Croatia's solidarity with and commitment to global anti-terrorist campaign. Minister Tonino Picula delivered a statement during the Ministerial Council of the Organisation on Security and Co-operation in Europe (OSCE), in Bucharest on 3 December 2001, whereby he reiterated the aforestated position of the Republic of Croatia on international terrorism.

13. International terrorism neither knows nor respects any borders or limits. Clearly, such a non-discriminating threat calls for a non-discriminating response at the national, regional and global level. The Republic of Croatia stands ready, where possible, to join the activities of European Union aimed at combating international terrorism, including the preparations for the gradual harmonisation of Croatian legislation with new legislative proposals of the European Union, especially within the Framework Decision on Combating Terrorism and Framework Decision on the European Arrest Warrant. The Republic of Croatia is keen to implement the relevant provisions of the Stabilisation and Association Agreement (Article 80 relates to suppression of illegal activities, including terrorism), signed on 29 October 2001 in Brussels, and to enhance co-operation in the areas of the European Union's Common Foreign and Security Policy and Justice and Home Affairs.

14. The Republic of Croatia has also stepped up its co-operation with neighbouring countries, both bilaterally and within the framework of regional organisations and initiatives (e.g. the Organisation for Co-operation and Security in Europe, the Stability Pact, etc.), in order to adequately address the scourge of terrorism. The Republic of Croatia believes that the comprehensive response to international terrorism, at all levels, should be based on:

- the UN Charter and the existing legal framework for combating international terrorism, in particular United Nations conventions and protocols against international terrorism;
- due regard to legal instruments related to international criminal law and human rights;
- strengthened international instruments on arms control, particularly small arms and weapons of mass destruction;
- ensured central role for the United Nations in co-ordinating actions against international terrorism, particularly the Security Council which should ensure the legitimacy and legality of actions to be taken, as well as for ECOSOC and UN humanitarian agencies in their efforts to lessen and eradicate the breeding ground for terrorism;
- rigorous and full implementation of all relevant Security Council resolutions, in particular its resolution 1373 (2001);
- concentration of efforts to resolve regional conflicts that pose a fertile ground for recruiting terrorists;
- enhanced multilateral, regional, sub-regional and bilateral co-operation among states against international terrorism, including exchange of relevant information;
- co-operation and assistance in criminal investigations or criminal proceedings pertaining to terrorism;
- simplified procedure for extradition of those responsible for terrorist acts.

III. IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1373 (2001)

15. The Government of the Republic of Croatia has taken necessary measures in order to implement Security Council resolution 1373 (2001). The Ministry of Foreign Affairs informed all the relevant state authorities about the necessity to implement Security Council resolution 1373 (2001). Accordingly, it initiated a review of the national legislation in order to ascertain whether the obligations contained in Security Council resolution 1373 (2001) could be implemented through existing national legislation. The review undertaken by all competent state bodies has not given reason to take urgent measures for amendment of legislation.

16. Nevertheless, the relevant state bodies proposed certain adjustments in existing laws, as well as to those bills that are still undergoing legislative procedure, as to enable the full and efficient implementation of Security Council resolution 1373 (2001). The existing laws that are under consideration for amendments are as follows:

- Trade Act;
- Law on Movement and Residence of Foreigners;
- Police Act;
- Criminal Code;
- Criminal Procedure Act;
- Law on Prevention of Money Laundering.

In addition, the bills under consideration for amendments are:

- Law on the Intelligence Services of the Republic of Croatia;
- Defence Act;
- Law on Production and Overhaul of and Trade in Weapons and Military Equipment;
- Asylum Act;
- Law on the Personal Data Protection;
- Bank Act;
- Law on Domestic Money Transactions;
- Law on Foreign Currency Transactions;
- Law on International Legal Assistance and the Execution of Treaties in Criminal Cases;
- Law on the Witness Protection Program and the Protection of Persons co-operating with Justice.

17. The Croatian Government adopted a **Conclusion** on 22 November 2001 by which all the relevant state bodies are obliged to propose amendments to all laws and regulations, within their competencies, which are necessary for the implementation of obligations contained in Security Council resolution 1373 (2001). Furthermore, all the relevant state bodies are mandated to reassess the laws which are about to be passed in the Parliament, and to propose further amendments which will ensure full implementation of Security Council resolution 1373 (2001). This legislative process is underway.

18. The Croatian Government also adopted a **Decision** on establishing an Inter-Agency Working Group for Monitoring the National Implementation of Security Council Resolution 1373 (2001) Concerning Combating Terrorism on 22 November 2001. The Government mandated this Inter-Agency Working Group with the co-ordination of all activities of the competent state bodies related to the implementation of Security Council resolution 1373 (2001), as well as preparing reports pursuant to paragraph 6 of Security Council resolution 1373 (2001). The Inter-Agency Working Group for Monitoring the National Implementation of Security Council Resolution 1373 (2001) Concerning Combating Terrorism is chaired by the Ministry of Foreign Affairs and consists of representatives of the Ministry of the Interior; the Ministry of Defence; the Ministry of Justice, Administration and Local Self-government; the Ministry of Finance; the Anti-Money Laundering Department of the Ministry of Finance; the Ministry of Economy; the Ministry of Maritime Affairs, Transportation and Communications; the Croatian National Bank; the Office of State Prosecutor. Chairman of the Inter-Agency Working Group is authorised to include representatives of all other state bodies in a work of the Group, if he deems it necessary.

19. Pursuant to the request made by the Counter-Terrorism Committee, Croatia notified three contact persons for information or assistance in connection with matters arising under resolution 1373 (2001), one from the Ministry of Foreign Affairs two from the Permanent Mission of the Republic of Croatia to the United Nations in New York.

Further comments in relation to specific questions posed by the Counter-Terrorism Committee:

Operative Paragraph 1

Sub-paragraph (a)

What measures if any have been taken to prevent and suppress the financing or terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

20. The procedure for conduct of regular anti money laundering activities by the competent Departments of the Ministry of Finance is stipulated by the Law on the Prevention of Money Laundering and the Act on the Rules About the Manner and Terms of the Reporting to the Anti Money-Laundering Department and Record Keeping of the Gathered Information (see: Annexes IV and V). Competent Departments of the Ministry of Finance issued

special directives for conduct under special circumstances, such as when a credible threat of international terrorism exists, putting in place special procedures for these circumstances.

21. The Ministry of Finance undertook the following measures to suppress the financing of terrorist acts:

21.1. It established the Permanent Co-ordination Task Force for the implementation of Security Council resolution 1373 (2001). The Task Force consists of representatives of all supervisory bodies within the Ministry of Finance (the Tax Department, the Custom Department, the Division of Foreign Exchange Inspectorate). It is chaired by a representative of the Anti Money-Laundering Department. Apart from being responsible for the co-ordination of the implementation of antiterrorist measures within the Ministry itself, the Task Force is also responsible for co-operation with other state bodies and initiatives in charge of fighting terrorism.

21.2. The following measures and actions were undertaken at the level of the Task-Force:

21.2.1. The Anti Money-Laundering Department searched its databases and checked the names of over 600 physical and legal persons, from the list issued pursuant to paragraph 8 (c) of resolution 1333 (2000) by the Security Council Counter-Terrorism Committee. It applied the same procedure to the lists received in bilateral contacts from certain states. Also, the Anti Money-Laundering Department conducted a search of the financial system (bank system). The results were sent to FinCen (USA Financial Investigation Unit), which was agreed to be an international co-ordinator for the exchange of information.

21.2.2. The Anti Money-Laundering Department requested the Ministry of the Interior, the State Prosecutor and the Croatian National Bank to additionally examine their files and identify potential physical and legal persons who can be associated with terrorist organisations and financing of terrorist activities.

21.2.3. The Anti Money-Laundering Department issued directives for conduct under special circumstances, such as when a credible threat of international terrorism exists, putting in place special procedures for these circumstances. For example, when it is suspected that a financial transaction may be used for financing terrorist acts, a special co-ordinator is appointed for such cases, which are automatically designated as a priority in further processing within the Department. This procedure should ensure a rapid and adequate response to attempts to finance terrorist activities.

21.2.4. Within the framework of its competencies, the Anti Money-Laundering Department is streamlining its main activities on cutting off, i.e. detecting financial flows used by members of terrorist organisations through:

(i) enhancing and strengthening the co-operation with other Departments and Sections within the Ministry of Finance, as well as other state bodies (the Ministry of the Interior, the Office of State Prosecutor, the Croatian National Bank, the Ministry of Foreign Affairs) aimed at detecting whether suspected persons have criminal records or are under investigation, or whether the relevant bodies have any other information available;

(ii) intensifying and improving the co-operation and the exchange of information with foreign Offices (financial intelligence units), among other, via telephone and protected security web system.

21.2.5. The Tax Department conducted a search of its databases for all purchases and sales of real estate, tangible and intangible property, as well as financial transactions of humanitarian organisations and associations connected to physical and legal persons that can be related to terrorist organisations. The Tax Department issued guidelines for its conduct under special circumstances that comprises the following:

(i) the Crisis Headquarters has been established, directed by the Head of the Tax Department and his/her assistants;

(ii) the Action Plan for Internal and External Conduct has been adopted;

(iii) strengthening of security measures related to persons, objects and property of the Tax Department; (iv) strengthening of protection of tax data and related documentation.

21.2.6. The Customs Department searched its database for illicit transfers of cash over the state border pertaining to physical and legal persons that can be related to terrorist organisations. It also strengthened the overall control of traffic of goods across the border, particularly the transfer of money.

21.2.7. The Division of Foreign Exchange Inspectorate searched its database looking for transactions made by physical and legal persons that can be connected to terrorist organisations. The Division has proposed that some provisions of the Law on Foreign Currency Transactions should be amended and related regulations, so as to better identify the actual owners of off-shore companies. It has also proposed that during criminal investigation special attention should be paid to cases which include confiscation of unreported assets. The Division has further proposed increased supervision of financial transactions made by domestic and foreign persons, including:

(i) opening and management of resident and especially non-resident accounts, pursuant to provisions on the prescribed documentation and identification obligation set by the Croatian National Bank;
(ii) respect for prescribed limitations with the deposit and withdrawal of assets, in accordance with the Law on Foreign Currency Transactions and the Law on the Prevention of Money Laundering;
(iii) transactions, especially those that include off-shore zones, countries and areas which supposedly offer safe haven or support terrorists;
(iv) humanitarian organisations, non-governmental organisations, etc.;
(v) money exchange offices.

In cases of atypical situations, such as those caused by terrorist activities, the Division of Foreign Exchange Inspectorate anticipated the strengthening of physical and technical security at the Division premises, as well as establishing and following special security procedure during the conduct of criminal proceedings.

22. The Ministry of Finance submitted the Report to the Croatian Government on 15 November 2001 regarding the above-mentioned measures and actions taken for suppressing the financing of terrorism, and proposed further measures to be taken in that area.

23. The Office for Combating Corruption and Organised Crime was recently established. Among others, this body deals with the prevention and suppression of financing of terrorism. It was mandated, in accordance with the Law on the Office for Combating Corruption and Organised Crime (Official Gazette 88/01), with the prosecution of terrorist organisations. It has substantial authority in financial investigation and can request, prior to initiation of criminal proceedings, freezing of assets. This law reflects the word and the spirit of the United Nations Convention against Transnational Organised Crime from 2000, which Croatia signed together with its two Protocols in Palermo 2000. According to the Criminal Procedure Act, police can independently, or at the request of the Office, temporarily seize assets proved to be used towards the financing of criminal activities, including terrorist acts. If there is evidence that the owner or the holder of assets, which are directly or indirectly intended for the perpetration of a terrorist act, is a member of a criminal organisation or that he/she is supporting it, those assets can also be frozen or seized.

Sub-paragraph (b)

What are the offences and penalties in your country with respect to wilful provision or collection, by any means, directly or indirectly, of funds by your nationals or on your territory with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts?

24. The crimes related to the financing of terrorist acts, penalties and procedure for dealing with these crimes are defined by the Criminal Code, the Criminal Procedure Act and the Law on the Prevention of Money Laundering.

The Criminal Code (Official Gazette Nos. 110/97, 27/98, 50/00, 129/00, 51/01)[1]

25. The perpetrator, i.e. an individual who collects funds with the intention that the financial means should be used in order to carry out a criminal act of international terrorism, may be punished for assisting in the execution of a criminal act of international terrorism pursuant to Article 38 of the Criminal Code. This person shall be punished as if he/she himself/herself committed the crime in question. In cases where the act was only an attempt, the punishment is at least three years of imprisonment. If at least one person was intentionally killed, the punishment could be long-term imprisonment, which is considered to be imprisonment from 20 to 40 years. For further details see paragraphs 45.1 and 45.2 of this report; and Annex I.

26. In cases where the terrorist (criminal) organisation has been established, the individual can be punished for being a member in the terrorist organisation, pursuant to Article 333 of the Criminal Code, with a maximum of three years of imprisonment. Article 333, paragraph 2 provides that "[W]hoever organises or leads a criminal organisation shall be sentenced to imprisonment of six months to five years." paragraph 4 states that "a member of the group" referred to in paragraph 2 of this Article "shall be sentenced to imprisonment of three months to three years."

27. Article 279 of the Criminal Code defines a criminal act of the "Concealing Illegally Acquired Money". It stipulates the imprisonment from six months to five years for its perpetration. If the crime defined in this Article is committed within a criminal group or organisation, a prison sentence from one to ten years is prescribed.

The Criminal Procedure Act (Official Gazette Nos. 110/97, 27/98, 58/99 and 112/99)[2]

28. Articles 180 through 182 of the Criminal Procedure Act provide for special investigation methods for detecting and preventing certain crimes, among which are the concealment of illegally acquired funds, and other crimes that are punishable by imprisonment for a term of five or more years, that are applicable in cases when reasonable doubt exists that such offences are prepared or committed by a group of persons or criminal organisation.

29. Articles 218, paragraph 1 and 219, paragraphs 3, 5 and 6 provide for the seizure of gains thus acquired. Pursuant to Article 218, paragraph 1, objects which may help in the criminal investigation shall be temporarily seized. Pursuant to Article 219, paragraph 3, the investigating judge may request a bank to submit the suspect's deposit account data for possible seizure of the suspect's assets gained through criminal activities. Under paragraph 5 the court can order a person or an entity to suspend financial transactions if these appear to be criminal, or to be serving for harbouring a criminal act or proceeds derived from it. Paragraph 6 provides for temporary seizure of financial assets intended for transaction to be suspended under a court ruling.

30. Articles 463 through 472 define the rules of procedure to be applied by the court in seizing illegally gained assets and ruling temporary precaution measures to ensure such seizure. Article 464, paragraph 1 provides for the court's obligation to assess the value of criminal gains, whereas under Article 465 such gains must be seized even if transferred to another person.

The Law on the Prevention of Money-Laundering (Official Gazette No. 69/97)[3]

31. The Law on the Prevention of Money-Laundering prescribes measures to be taken in banking and financial transactions in order to detect and prevent money laundering. (See paragraphs 27 and 29 of this report, and Annex IV.)

[1] See: Annex II for the English translation of the Criminal Code.
[2] See: Annex III for the English translation of the Criminal Procedure Act.
[3] See: Annex IV for the English translation of the Law on the Prevention of Money Laundering.

32. The Republic of Croatia is a party to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, which represents one of the most important legal instruments in combating organised crime. Its *ratio* is in the need for unifying national policies in the fight against organised crime, including terrorism. These crimes pose a threat on the international level, which demands more sophisticated and efficient responding methods world-wide. One of those international countermeasures should entail the seizure of proceeds acquired by a criminal act.

Sub-paragraph (c)

What legislation and procedures exist for freezing accounts and assets at banks and financial institutions?

33. The Law on the Office for Combating Corruption and Organised Crime (Official Gazette No. 88/01) enables freezing and the temporary seizure of assets if an act of international terrorism was committed. This Law entered into force on 19th October 2001 and until today no assets have been frozen pursuant to this Law.

34. In its Articles 44 through 56 the Law provides for a special enforcement procedure of compulsory seizure of funds, income or assets acquired through criminal activities. The procedure envisaged in these Articles is not a criminal procedure, instead it is an enforcement version of the provisions of the Seizure Act (Official Gazette Nos. 57/96 and 29/99). The above-mentioned seizure of assets is carried out pursuant to the Criminal Procedure Act, and is conducted by the judge.

35. The above-mentioned procedure is as follows. The Office for Combating Corruption and Organised Crime initiates *ex officio* freezing and the temporary seizure of means, proceeds or assets in an act of international terrorism is in question. The procedure is urgent, and it may be initiated prior to the criminal proceedings. The Office for Combating Money Laundering informs the Office for Combating Corruption and Organised Crime about funds, means, proceeds or assets for which it is reasonable to assume that stem from criminal acts referred to in Article 21 of the Law on the Office for Combating Corruption and Organised Crime Law. The state inspectors authorised to temporarily seize suspicious funds, proceeds or assets take the action, and inform the Office on what has been done.

36. At the Office's proposal, the court orders the securing measure of forfeiture of the funds, proceeds or assets resulting from criminal offences specified in Article 21 of the same Law, if it has been established that:

(i) there is a reasonable doubt that the funds, proceeds or assets directly or indirectly result from the criminal offence specified in Article 21;

(ii) the value of such funds, revenues or property exceeds a total of 100,000.00 Croatian Kunas;

(iii) there is a reasonable doubt that the perpetrator of the criminal offence specified in Article 21 intends to, prior to the beginning of the criminal proceedings or during the criminal proceedings, prevent the forfeiture of the funds, proceeds or assets resulting from criminal offences specified in Article 21, or make it significantly difficult.

37. As a securing measure, the court may order one or more measures specified by the Seizure Act, particularly:

(i) lien note on the property of the opponent or on the title to the property;

(ii) any of the securing measures of the seizure of unregistered real property, attachment or custody or management of movable property, money claims, income under Employment or Service Contracts, and any other property related or material rights, as well as the seizure of stock certificates and other securities of the opponent;

(iii) restraining order to prevent the bank or legal entity licensed for payment transactions to pay the opponent, or a third party upon an order from the opponent, the sum of money from his account in regard of which the securing measure has been ordered; such amounts may not be transferred from that account as long as the restraining order is in effect; any action taken by the opponent in contravention of the measure ordered by the court have no legal effect whatsoever.

38. Banks and other legal entities and natural persons referred to in Article 2 of the Anti-Money Laundering Act are obligated to disclose data on accounts of the holder indicated, which are reasonably suspicious of being used by that person for the transactions related to organised crime or to hide the source of that money. If such requested data are not promptly provided, the responsible person will be held liable for obstructing justice under Article 304, paragraph 2 of the Criminal Code. The bank or other legal entity licensed for payment transactions can also be requested by the Office to monitor transactions carried out on the accounts of a suspected person. The order is issued the court upon request of the Office. The judge in charge, identifies in his order the account holder, the monitoring period, which cannot exceed six months, and the obligation to keep such monitoring of payment transactions confidential.

39. The securing of funds, revenues or property resulting from criminal offences specified in Article 21, paragraph 1, Sub-paragraphs 2 and 3 of the said Law, may also be ordered and carried out pursuant to the conditions stipulated by an international treaty to which the Republic of Croatia is a party to. Requests by foreign courts are being decided upon by the Croatian court, while the requests by other foreign government bodies concerning the provision of information on the seizure of the funds, proceeds or assets resulting from criminal offences are being decided upon by the Head of the Office for Combating Corruption and Organised Crime.

40. According to Article 10, paragraph 2 of the Law on the Prevention of Money Laundering (Official Gazette 69/97, 106/97, 67/01), the Anti Money-Laundering Department is authorised to postpone the transaction for two hours at most. The Ministry of Finance sent the Croatian Government the proposal of amendments to the Law on the Prevention of Money Laundering on 30 November 2001. The proposed amendments extend the time limit from two to seventy-two hours. Moreover, in accordance with these amendments, once the Anti Money-Laundering Department gives an order to obligated entities to postpone the transaction, it informs the State Prosecutor of its act. This particular amendment was proposed in order to fulfil Croatia's obligations under Security Council resolution 1373 (2001). The proposed amendments to the Law on the Prevention of Money Laundering were sent into urgent parliamentary procedure and were adopted by the Parliament at the end of December 2001.

41. The Ministry of Finance, particularly the Division of Foreign Exchange Inspectorate, intends, in co-operation with the Croatian National Bank, to propose amendments to the draft of the new Law on Foreign Currency Transactions and supporting regulations, which would enable them to better identify the beneficiary and the account, which may be used for financing terrorist activities.

Sub-paragraph (d)

What measures exist to prohibit your nationals or any persons and entities within your territory from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons?

42. The Law on the Prevention of Money-Laundering (Official Gazette 69/97) prescribes measures and actions in banking, financial and other activities undertaken for the purpose of detecting and preventing money laundering. The measures and actions for the detection and prevention of money laundering are undertaken during the investment, take-over, exchange, or distribution of funds. The same measures are undertaken during the concluding of legal agreements that allow for the acquisition of property, as well as other forms of ownership of funds and other property that can serve the purpose of money laundering, i.e. all kinds of transactions.

43. Other measures towards prohibiting the financing of terrorist activities have already been mentioned in responses to Operative Paragraph 1, Sub-paragraphs (a) and (c).

Operative Paragraph 2

Sub-paragraph (a)

What legislation or other measures in your country prohibit providing any form of support, active or passive, to entities or persons involved in terrorist acts? In particular, what offences prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

44. Croatian legislation contains provisions that criminalize support, active or passive, to entities or persons involved in terrorist acts, including the recruitment of members of terrorist groups and supply of weapons to terrorists. The main provisions are contained in the Criminal Code, the Trade Act and Government Decision on Determination on Goods Imported and Exported on the Basis of Licenses. The Law on Production, Overhaul and Trade of Weapons and Military Equipment is in legislative procedure and is to be adopted soon.

45.1. In its Article 169 **the Criminal Code** (Official Gazette Nos. 110/97, 27/98, 50/00, 129/00 and 51/01) defines the crime of international terrorism. Its basic definition is given in paragraph 1: "[W]hoever, with intent to harm a foreign state or an international organisation, causes an explosion or fire by some generally dangerous act or device, endangers people or property or kidnaps a person or commits some other act of violence shall be sentenced to a minimum three-year imprisonment".

45.2. A qualified form of this criminal act is provided in paragraphs 2 and 3. Paragraph 2 describes a specific form of qualified murder: "[I]f the perpetrator, when carrying out a criminal act referred to in paragraph 1 of this Article, intentionally kills one or more persons, he/she shall be sentenced to a minimum ten year or long-term imprisonment." A long-term imprisonment usually refers to a sentence of 20 to 40 years. Paragraph 3 states that " [I]f by a criminal act referred to in paragraph 1 of this Article the death of one or more persons or extensive destruction is caused, the perpetrator shall be sentenced to a minimum of five year imprisonment".

45.3 In addition to the crime of international terrorism, Article 141 of the Criminal Code defines the crime of anti-state terrorism. It is described as follows: "[W]hoever, with the aim to endanger the constitutional order or the security of the Republic of Croatia, causes an explosion, fire, or by a generally dangerous act or device imperils the lives of people, endangers property, kidnaps a person, or commits some other act of violence within the territory of the Republic of Croatia or against its citizens, thus causing a feeling of personal insecurity to citizens, shall be punished by imprisonment for no less than three years."

45.4. In Article 333, paragraph 2, the Criminal Code provides for the punishment for whoever organises a criminal organisation or manages it. The Perpetrator shall be punished by a prison term from six months to five years. (See paragraph 26 of this report.)

45.5. Article 334, paragraph 1 of the Criminal Code, which deals with the assembly and supply of weapons and instruments intended for the perpetration of a criminal offence, provides for the punishment for whoever makes, supplies or enables another to obtain weapons, explosive substances or means intended for their production, or poisons which he knows to be intended for the perpetration of a criminal offence. The perpetrator shall be punished by a prison term from three months to three years.

45.6. Article 335, paragraph 1 is on illicit possession of weapons and explosive substances. It incriminates unauthorised possession of firearms and explosive substances, when a person makes, supplies, possesses or otherwise acquires for himself/herself or a third party firearms, ammunition or explosive substances whose supply, sale or possession is not permitted to citizens. The perpetrator shall be fined or imprisoned for up to three years. Paragraph 2 provides for the punishment for whoever supplies, possesses, sells, makes or exchanges, without authorisation, larger quantities of firearms, ammunition or explosive substances. The perpetrator shall be imprisoned from one to five years.

46. The current **Trade Act** (Official Gazette 11/96 and 75/99) does not directly regulate the suppression of terrorism and, therefore, it does not contain a general trade prohibition in relation to other countries or institutions (which are not under United Nations sanctions). The only restrictions apply to trade transactions that could threaten the national security or safety of citizens and their health, as well as those based on international treaties to which the Republic of Croatia is a party to, or resolutions of the Security Council adopted under Chapter VII of the United Nations Charter.

47. Croatian legislation envisages a legal basis for denying the import and export of arms and ammunition, and procedures through which all requests for such cases are dealt with. Pursuant to the **Government Decision on the Determination of Goods Imported and Exported on the Basis of Licenses** (Official Gazette 78/00), the Ministry of Economic Affairs issues import and export licenses for arms and ammunition for commercial purposes with the previous approval of a Committee that consists of representatives of the Ministry of Defence, Ministry of the Interior, Ministry of Foreign Affairs and Ministry of Economic Affairs. The applications for import and export licenses are submitted through forms MG-TI and MG-TU, which are defined in the above-mentioned Decision. An application for the issuance of the import of arms license for commercial purposes must be accompanied by an excerpt of the registration of the company proving that it is registered for the trade of arms, ammunition, explosives etc. It is also necessary to submit an invoice and specification of arms/ammunition. In addition to the import license, the Ministry of Economic Affairs (related to an application by an applicant) issues a certificate of the end user, which contains the same elements as the license. The procedure of submitting an application for the export license for arms and ammunition for commercial purposes is the same as for imports. However, it is necessary to submit a copy of import license of the buyer and the original certificate of the end user.

48. The Republic of Croatia intends to provide more intensive control on trade of weapons and explosives. Consequently, the Ministry of Defence proposed a **Draft Law on Production, Overhaul and Trade of Weapons and Military Equipment**, which (in part that regulates trade of weapons) authorises a designated Government Agency to establish and maintain a database of imported and exported weapons and military equipment.

49. Taking into consideration that arms control agreements are not primarily designed as tools for combating terrorism, there are some elements that are useful in efforts to suppress terrorism (e.g. monitoring treaty-limited equipment, inspection regime, declarations and annual exchange of information related to equipment and armament). The Croatian Verification Centre, as an executive arms control centre within the Ministry of Defence, actively participates in the implementation of internationally accepted commitments in the area of arms control, particularly the Agreement on Sub-regional Arms Control (Article IV, Annex 1-b of the Dayton Peace Agreement for Bosnia and Herzegovina). The Centre also deals with the implementation of Confidence and Security Building Measures (CSBMs) within the framework of the Vienna Document 1994/1999, along with additional regional and other CSBMs, based on reciprocity.

Sub-paragraph (b)

What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

50. The Republic of Croatia has been a full-fledged member of INTERPOL since 1992, and pursuant to that is obliged to observe the INTERPOL Statute and resolutions that regulate issues related to terrorism. The Ministry of the Interior is the governmental body responsible for relations with INTERPOL. All the operative information related to terrorist organisations and their activities are exchanged with other states through INTERPOL, as well as relevant information related to the illegal trafficking of human beings, weapons, explosives, sensitive substances, i.e. all criminal activities directly or indirectly related to terrorist activities.

51. In addition, the Republic of Croatia co-operates bilaterally with other states in the fight against terrorism in the ongoing effort to develop and strengthen its efficiency, especially by further intensifying bilateral, regional

and multilateral co-operation. The Ministry of the Interior, i.e. General Police Directorate, in co-operation with other competent state bodies, and in accordance with international standards, continually undertakes operative-preventive measures in order to suppress and eliminate threats of terrorist activities.

52. The fruitful co-operation between the Croatian police and the police of the United Kingdom of Great Britain and Northern Ireland (in the year 2000) resulted in the elimination of a chain of weapons supply to dissident fractions of IRA from the territory of Croatia. This is an excellent example of how close co-operation and exchange of information can lead to a tangible outcome.

53. The Republic of Croatia, aware of the potential hazard of biological and chemical weapons, is developing a network of epidemiological surveillance on the entire state territory. The Joint Headquarters for Prevention has already been established, linking competent state bodies with civilian medical institutions. This Headquarters is continuously monitoring the situation with regard to the threat of biological and chemical attacks. This network should ensure a quick response capability of the medical segment to biological and chemical threats by preventive operational procedure in fields such as water supply, food production, vaccination, DDD, postal service.

54. The Interagency Working Group for Monitoring the National Implementation of the Security Council Resolution 1373 (2001) Concerning Combating Terrorism proposed to the Government of the Republic of Croatia the strengthening of the early warning mechanism in order to ensure better prevention of and response to terrorist acts in a timely manner.

Sub-paragraph (c)

What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling those who finance, plan, support, or commit terrorist acts, or provide safe havens? It would be helpful if States supplied examples of any relevant action taken.

55. The Republic of Croatia regulated the issue of denying safe haven to terrorists by the Law on Movement and Residence of Foreigners and the Law on the Control of State Border of the Republic of Croatia. The Act on Asylum is in legislative procedure and is expected to be passed by the Parliament in the near future.

56. Regional initiatives, such as the Stability Pact for South-eastern Europe tackle the issue of denying safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens, too. As a matter of fact, a partnership project among the Federal Ministry of the Interior of Germany, Ministry of the Interior of the Republic of Austria, Ministry of the Interior of the Republic of Slovenia and Ministry of the Interior of the Republic of Croatia has been agreed upon under the auspices of the Stability Pact. This project requires the creation of national plans of activities for lasting stabilisation and development in the area of asylum, migrations, border control and surveillance of the state border in Croatia, which should be based upon existing European Union standards. The above-mentioned project foresees co-operation in the field of telecommunications and harmonisation of legislation, co-operation among relevant institutions and personnel, expert education and specialisation, as well as the exchange of information. The national plans should be drawn up by April 2002. The extent of the attention paid to the problem of asylum and migrations within the Pact can be seen through the establishment of the "CARDS PROGRAM", within which two relevant projects have been drafted, "Integrated Management of Borders" and "Strengthening of Asylum and Migrations Development Policy".

57. The Republic of Croatia joined a number of regional initiatives, such as the Central European Initiatives (CEI), the South Eastern Co-operation Initiative (SECI), the Adriatic-Ionian Initiative, the Budapest process, as well as international organisations such as International Organisation for Migrations (IOM). One of the reasons for joining these initiatives and organisations was to achieve more efficient results in controlling migrations, borders and ultimately, to combat terrorism.

58. With the same purpose, the Republic of Croatia joined the RTF (Regional Task Force), group set up at the initiative of the United Nations, whose other members are the Federal Republic of Yugoslavia and Bosnia and

Herzegovina (the Republic of Srpska and the Federation of Bosnia and Herzegovina), and whose basic aim is enhancement of police co-operation. (See paragraph 85 of this report.)

59. The Republic of Croatia is preparing a separate law related to extradition. Until its passage, the provisions of Chapter XXXI of the old Criminal Procedure Act (Procedure for the Extradition of Accused and Convicted Persons) (Official Gazette No. 34/93) are applicable, on the basis of Article 504 of the Criminal Procedure Act (Official Gazette No. 110/97), which is currently in force.

60. The Republic of Croatia is a party to the 1957 European Convention on Extradition since 1995, whose provisions are fully implemented.

Sub-paragraph (d)

What legislation of procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.

61. As already mentioned in response to Operative Paragraph 1 Sub-paragraph (a), Article 169 of the Criminal Code, paragraph 1, criminalises international terrorism, that is, when someone aims to harm a foreign state or international organisation, causes explosion or fire, or by any other commonly dangerous act or means causes any danger for people or assets, or where someone takes hostages or commits any other act of violence. The definition of international terrorism, as used in the Criminal Code, corresponds to the European Convention on the Suppression of Terrorism, of 1977 (Article 1).

62. No person had been extradited or transferred to the Republic of Croatia for the criminal offence described in Article 169 during the year 2000.

63. Pursuant to the Criminal Code [see Annex I], instigators and accomplices who instigate the perpetrators or help by commission, shall be punished. If such an organisation is organised on the territory of the Republic of Croatia, its members would also be held responsible for the criminal act defined in Article 333, i.e. for organising or heading a criminal organisation, that is being members thereof.

64. Article 14 paragraph 1 of the Criminal Code provides, among other things, that the criminal legislation of the Republic of Croatia shall apply to anyone who, outside its territory commits any criminal offence which the Republic of Croatia is obliged to prosecute according to the provisions of international law and treaties. Paragraph 4 provides that the criminal legislation of the Republic of Croatia shall be applied to a foreigner who, outside the territory of the Republic of Croatia, commits a criminal offence against a foreign state or another foreigner, for which a punishment of five years of imprisonment or a more severe penalty may be applied, provided that the perpetrator is found on the territory of the Republic of Croatia and is not extradited to a foreign state.

Sub-paragraph (e)

What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any conviction obtained and the sentence given.

65. In the legislation of the Republic of Croatia, the criminal offence of international terrorism is ranked among the criminal offences against the values protected by international law (Chapter XIII of the Criminal Code). In accordance with Article 169, paragraph 2 of the Criminal Code, the punishment for participation in the financing, perpetration or support of terrorist acts is long-term imprisonment (maximum forty years). If the above-mentioned criminal act was attempted, an individual should be punished as a perpetrator.

66. The Ministry of Justice, Administration and Local Self-government is considering possible amendments to Article 169 of the Criminal Code related to international terrorism with a view to sanctioning other (helping and supporting) participants in terrorist acts. The amendment would imply that the preparation of a criminal act of international terrorism shall be incriminated, so that individuals taking part in the preparation of financing, planning or perpetration of such criminal acts could be punished, although such acts were not attempted.

67. Until now, no individual person has been sentenced for criminal acts defined in Article 169 of the Criminal Code. The proceedings are instigated and underway against two individuals charged with selling arms, supposedly to be used for commission of terrorist acts.

Sub-paragraph (f)

What procedures and mechanisms are in place to assist other states in connection with criminal investigations or criminal proceedings relating to financing or support of terrorisf acts, including assistance in obtaining evidence in their possession necessary for the proceedings?

68. The Government Office for Combating Corruption and Organised Crime is authorised to directly co-operate with similar entities in other countries and exchange data with them. Article 15, paragraph 1, of the Law on the Office for Combating Corruption and Organised Crime provides that the State Prosecutor shall, besides other responsibilities, co-operate - in accordance with the international treaty - with the competent bodies of other states and international organisations.

69. The Republic of Croatia bases its international co-operation on multilateral and bilateral conventions, to which it is a party to. These conventions are an integral part of Croatian legislation that regulates assistance to other states in connection with criminal investigations, criminal proceedings related to the financing and support of terrorist acts, including assistance in obtaining evidence necessary for the proceedings.

70. A Draft Law on International Legal Assistance and Implementation of International Treaties in Criminal Matters is under preparation. Until its passage, the provisions of the old Criminal Procedure Act (Official Gazette No.34/93), Chapter XXX (Proceedings for Rendering International Assistance and Implementation of International Treaties in Criminal Law Matters), as well as of the aforementioned Chapter XXXI (Procedure for the Extradition of Accused and Convicted Persons), are to be applied.

Sub-paragraph (g)

How do border controls in your country prevent the movement of terrorists or terrorist groups? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent counterfeiting, forgery or fraudulent use of identity papers and travel documents?

71. The border police of the Ministry of the Interior prevents the movements of potential terrorists and persons who could be connected to them across the state border, in accordance with the Law on the Control of the State Border, as well as of the Law on Movements and Residence of Foreigners. In the first ten months of 2001, 11,444 persons were banned entry into the Republic of Croatia on the basis of not fulfilling the requirements established by the above-mentioned laws. In the same period, 16,741 persons were apprehended at illegal crossings of the state border. Out of this number, 11,245 persons were intercepted at the state border, while the others were caught deeper within the Croatian territory. During the same period of time, the Croatian border police discovered 1,862 trafficking cases, out of which 488 cases were related to trafficking of human beings, in 198 cases the persons with counterfeited travel documents were discovered, in 9 cases the visas were counterfeited, in 70 cases the persons were misusing another person's travel documents and in 440 cases persons tried to smuggle weapons, ammunition, drugs etc.

72. Border Police and Control authorities have been strengthened. Control of persons, vehicles and luggage

have been intensified on all border crossings. Also, control of persons and luggage on domestic and international flights have also been strengthened, while additional checkpoints at entrances of all airports (with selective control of drivers, passengers and vehicles) have been established.

73. There is an assessment of a security risk, where members of terrorist groups can use channels established and used by organisers of illegal immigration in order to penetrate into Western European countries. The Ministry of the Interior identified the need for a better-equipped system on border crossing points that will directly be connected to the central headquarters operated by the Ministry of the Interior. The Ministry of Finance identified the same need with regard to the control of the traffic of goods and services across the state border, which is within its jurisdiction. The Institute "Ruđer Bošković" in Zagreb prepared a proposal of a project named "Terrorism and Illicit Trafficking in Explosives, Chemical Agents, Nuclear Material and Humans". The purpose of this proposal is to enhance border control and consequently national security, and thus to contribute actively to the full implementation of the Security Council resolution 1373 (2001). The Government of Republic of Croatia urges the Security Council members to give careful consideration to provision of financial and technical assistance to the Republic of Croatia in this respect.

74. The Law on Travel Documents of the Croatian Citizens regulates issuing of identity cards and travel documents to Croatian nationals, and the requirements and conditions under which they are issued. A high level of protection of Croatian travel documents was introduced in accordance with the ISO-standards on 1 January 2000. According to the available information, there were no registered cases of forgery of Croatian travel documents in the world. The fact which contributed to that was most probably the centralised way of making passports, because the passports are made at one place for all citizens of the Republic of Croatia, regardless of where the request is received. In this way, the possibility of making forged passports on original forms has been decreased substantially.

75. The Republic of Croatia signed bilateral agreements with the Republic of Italy, the Republic of Hungary and the Republic of Slovenia on crossing state borders by means of an identification card. When a Croatian citizen is issued an identification card, the citizen is required to submit a photo and a document about his identity, and his fingerprint is registered as well.

76. The Law on Movement and Residence of Foreigners regulates the issuing of travel documents and identity cards to foreigners. A foreigner, in order to obtain a travel document or identity card, has to have a legal status of foreigner in the Republic of Croatia, which is preceded by thorough background checks of the competent state bodies. When the mentioned documents are issued to a foreigner, his/her fingerprints are taken and together with the photo and identification documents are registered in the files.

77. The authorities competent for the issuance of visas are diplomatic and consular missions of the Republic of Croatia. The procedure of issuing visas depends on the visa regime with the country of origin of the foreigner. Before the visa is issued for an applicant, background checks are requested from the competent Croatian state bodies.

Operative Paragraph 3

Sub-paragraph (a)

What steps have been taken to intensify and accelerate the exchange of operational information, especially regarding actions or movements of terrorist persons or network; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups?

78. The reply to the question posed by the Counter-Terrorism Committee under this Sub-paragraph in larger part has already been given in responses to Operative Paragraph 1, Sub-paragraph (a), paragraph 21.2.1. and 21.2.4. of this report; Operative Paragraph 2, Sub-paragraph (b), paragraphs 50, 51, and 52 of this report;

Operative Paragraph 2, Sub-paragraph (c), paragraphs 56, 57, and 58 of this report; Operative Paragraph 2, Sub-paragraph (f), paragraphs 68, 69, and 70 of this report and Operative Paragraph 3, Sub-paragraph (c), paragraphs 85, 86 and 88 of this report.

79. International co-operation and exchange of information regarding terrorists and their activities have been intensified and conducted in accordance with the Statute of INTERPOL. Immediately after the terrorist attacks on 11 September, the NCB INTERPOL Zagreb Office of the Ministry of the Interior ensured a 24-hours-duty service established for reception, processing and exchange of information with other member countries of INTERPOL. The Republic of Croatia fully supports the establishment of the Working Group "September 11th 2001" in INTERPOL, which ensures that all information is processed as quick as possible and subsequently transmitted to the NCB INTERPOL Washington and FBI.

80. Croatian Security and Intelligence Services have been maintaining regular bilateral and multilateral contacts with the Governments of all coalition partners, as well as with partner Agencies in other states, on both the executive and expert level. These contacts intensified following the terrorist attack of 11 September 2001. A wide range of data exchange and other forms of co-operation are being performed with the aim of countering terrorism-related activities.

81. The Ministry of Finance, particularly the Anti Money-Laundering Department, is fully co-operative regarding the exchange of information connected to money laundering and the financing of terrorism. According to Article 14 of the Law on the Prevention of Money-Laundering, the Anti Money-Laundering Department is empowered to exchange information with foreign counterparts. Such units are integrated within the Egmont Group (association of the financial investigation units world-wide).

82. The procedures of future co-operation and exchange of information referring to money-laundering and financing of terrorism were agreed to at the special meeting of the Egmont Group with representatives of the USA supervisory services held on 31 October 2001 and 1 November 2001. One of the Anti Money - Laundering Department representatives attended this meeting. It was decided that all the actions connected to combat money laundering and financing of terrorism should be proceeded through FinCen (USA financial investigation unit), as a co-ordinator of international exchange of information.

Sub-paragraph (b)

What steps have been taken to exchange information and co-operate regarding actions or movements of terrorist persons or network; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups?

83. See paragraphs 78-82 of this report.

Sub-paragraph (c)

What steps have been taken to co-operate regarding actions or movements of terrorist persons or network; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups?

84. The Ministry of the Interior concluded Agreements on co-operation in the fight against terrorism, organised crime, drug abuse with eighteen countries (Albania, Austria, Germany, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Greece, Italy, Hungary, Macedonia, Poland, Romania, Slovakia, Slovenia, Turkey and Ukraine). The aim of the agreements is the exchange of information and intelligence on planned or committed terrorist acts, on the persons participating in such acts, modus of operation, as well as activities and technical means used in

those acts. Furthermore, co-operation envisages the exchange of information and intelligence on terrorist groups or their members, who commit or have committed criminal activities or plan them on the territory of, to the detriment of, and against interest of other countries, as well as information important for combating terrorist or criminal activities dangerous for public security. It encompasses the exchange of data and information on those terrorist groups or their members who carry out their criminal activities on the territory to the detriment or against the interest of other countries, as well as data important for suppression of terrorist or criminal activities dangerous for public safety. Thirty-two additional agreements are under preparation, including with the last neighbouring countries with which the Republic of Croatia has not signed such an agreement, i.e. the Federal Republic of Yugoslavia.

85. Mechanisms of regional co-operation have been activated to exchange information through SECI and Trilateral Agreement (the Republic of Croatia - Bosnia and Herzegovina - the Federal Republic of Yugoslavia). The Agreement was signed on 14 May 2001 between the Ministries of the Interior of the of the Republic of Croatia, the Federal Republic of Yugoslavia, and Bosna and Herzegovina (the Federation of Bosnia and Herzegovina, Republika Srpska) on co-operation for the suppression of crime, corruption, money-laundering, the smuggling of arms, drugs, people and illegal migrants. The Croatian representative gave a report on Croatia's activities undertaken to combat terrorism during the Symposium on International Terrorism in Lyon.

86. See answers given in paragraphs 13, 14, 56, 57 and 58 to this report.

87. The signing of agreements on co-operation between State Prosecutors Offices of neighbouring countries and the State Prosecutor Office of the Republic of Croatia is foreseen in the near future. Direct communication has already been established with neighbouring countries, including the exchange of information.

Sub-paragraph (d)

What are your government's intentions regarding signing, and/or ratifying the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999?

88. The Republic of Croatia signed and ratified a number of international conventions relating to the suppression of terrorism (see Annex I). The Republic of Croatia is a party to six United Nations conventions on terrorism and has signed an additional four United Nations conventions and protocols. It is also a party to two conventions and one protocol related to international terrorism adopted within the auspices of the Council of Europe, and has signed one additional convention (see Annex I).

89. The Ministry of Foreign Affairs forwarded to the Government of the Republic of Croatia a list of all international conventions related to the suppression of terrorism together with information on Croatia's status in these conventions, with the view of initiating internal legal procedure for the adherence to those conventions to which the Republic of Croatia is not a party. The Government of Croatia entrusted relevant state bodies to initiate and complete, as soon as possible, proceedings for the adherence to conventions and other international legal instruments related to the suppression of terrorism, which they assess as the most important for the implementation of Croatia's obligations under Security Council resolution 1373 (2001). This process of analysis of international legal instruments is under way.

90. During the General Debate of the 56th General Assembly Session, Minister of Foreign Affairs of the Republic of Croatia H.E. Mr. Tonino Picula signed on behalf of the Republic of Croatia the International Convention for the Suppression of the Financing of Terrorism. The Republic of Croatia intends to ratify the above-mentioned Convention in the near future.

Sub-paragraph (e)

Provide any relevant information on the implementation of the conventions, protocols and resolutions relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001).

91. International treaties pertaining to the suppression of terrorism, to which the Republic of Croatia is a party, form a part of the Croatian legal system. Pursuant to Article 140 of the Constitution of the Republic of Croatia "[I]nternational treaties concluded and ratified in accordance with the Constitution which have been published and have entered into force with respect to the Republic of Croatia, form a part of internal legal order of the Republic of Croatia, and shall have legal force superior to internal laws."

92. In addition, some of relevant recommendations, resolutions, directives of relevant international organisations are directly built into Croatian legislation. For example, the Law on the Prevention of Money Laundering reflects:

- the Council of the European Union directive of 10 June 1991 on Prevention of the Use of the Financial System for the Purpose of Money-Laundering;
- forty recommendations of the Financial Action Task Force (FATF).

93. As already mentioned under responses to Operative Paragraph 2, Sub-paragraphs (a) and (e), the definition of a crime of international terrorism contained in Article 169 of the Criminal Code is based on the definition of crime of terrorism as described in the European Convention on the Suppression of Terrorism of 1977.

94. The Republic of Croatia has followed up on all relevant Security Council resolutions against international terrorism and regimes providing support to terrorists. The Ministry of Foreign Affairs of the Republic of Croatia informed all relevant state bodies about these Security Council resolutions, as well as of subsequent actions taken in accordance with the resolutions. It also urged the state bodies to take all the necessary steps to impose, in accordance with the resolutions 1269 (1999) and 1368 (2001), sanctions on the territory of Afghanistan under Taliban control (arms and air embargo, financial and diplomatic sanctions). It also requested immediate freezing of funds of persons listed by the Security Council Sanction Committee concerning Afghanistan, in accordance with paragraph 8 (c) of resolution 1333 (2000). The Security Council Sanction Committee was accordingly notified of actions taken by the Republic of Croatia.

Sub-paragraph (f)

What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

95. At the present time, Croatia does not have an Act regulating the question of asylum. The Republic of Croatia recognises the status of refugees as regulated by the Law on Movement and Residence of Foreigners (see Operative Paragraph 3, Sub-paragraph (g); paragraphs 98 and 99 of this report). The Asylum Act is under preparation and expected to be sent to parliamentary procedure in January 2002. This Act will incorporate provisions that will be in accordance with international standards for human rights and further requests defined in the Security Council resolution 1373 (2001).

96. The Law on Movement and Residence of Foreigners in Article 33 prescribes that "[C]laim for authorising of refugee status will be denied if there is a reasonable doubt that the person has participated in any terrorist activity ...". Paragraph 2 of the same Article states that "[R]efugee status will be revoked if the above-mentioned reasons existed prior or after authorisation of refugee status."

97. The Republic of Croatia has ratified the Geneva Conventions and Protocols concerning refugees and has been applying these instruments in the process of determining refugee status.

Sub-paragraph (g)

What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please provide examples of any relevant cases.

98. The procedure for granting the refugee status is regulated by the Law on Movement and Residence of Foreigners in Articles 31-38. The refugee status can be granted to a foreigner with or without citizenship if he/she was forced to leave the domicile state where he/she had a permanent residence in order to evade prosecution on the grounds of political, national, racial and religious affiliations (Article 31). The request for refugee status will be rejected if there is a reasonable doubt that the person committed terrorist acts or that he/she acted against the purposes and principles of the United Nations Charter. The rejection ensues, regardless of whether the person committed these deeds before or after he/she acquired the refugee status (Article 34). Upon completing the prescribed procedure, the Ministry of the Interior after receiving opinion of the Ministry of Labour and Social Welfare, decides on granting or revoking of refugee status (Article 35). The procedure must establish that the refugee status is not abused by the perpetrators, organisers or facilitators of terrorist acts, and that claims of political motivation are not recognised as grounds for refugee requests for the extradition of alleged terrorists. The Ministry of the Interior conducts an interview after the submission of a request for refugee status. In addition, the Ministry searches for evidence of political prosecution, takes and analyses fingerprints, as well as photographs, and performs a security check. Further checking is done through police documentation and intelligence sources, while the foreign official sources might also be used (as part of international exchange of information and co-operation in this field). The request is decided upon on the basis of the above-mentioned procedure.

99. Until now, there have been no registered cases where person suspected of committing terrorist acts acquired the refugee status, or that an individual applied for such a status.

IV. OTHER MEASURES AND ACTIONS TAKEN FOR THE SUPPRESSION OF INTERNATIONAL TERRORISM

MINISTRY OF FOREIGN AFFAIRS

100. The Ministry of Foreign Affairs set up an *Ad hoc* Working Group for the Monitoring of the Crisis Caused by the Terrorist Attacks on the United States of America on 18 September 2001. The mandate of the *Ad hoc* Working Group is to gather and analyse information, as well as to provide subsequent suggestions to the Minister of Foreign Affairs on courses of action that the Government of the Republic of Croatia should undertake, altogether related to the current international response to terrorism.

101. The Ministry of Foreign Affairs issued precise instructions to all Croatian diplomatic missions related to the increased security risk posed by global terrorist threat. The Ministry set up a new phone line free of charge, as well as a new web site (http://www.mvp.hr/amerika/indexe.html), with all the necessary information regarding trips abroad and important world events in the campaign against terrorism.

102. The Ministry of Foreign Affairs proposed to the Government of the Republic of Croatia:

- to prepare a National Strategy for Prevention and Suppression of Terrorism;
- to strengthen and improve its early-warning mechanisms used for detecting terrorist attacks and ensuring adequate and timely response.

MINISTRY OF THE INTERIOR

103. Immediately following the terrorist attacks on the United States, the Ministry of the Interior has undertaken following measures in order to prevent any negative consequences of a potential terrorist attack on the territory of the Republic of Croatia:

- air transport security of international and domestic flights has been tightened;
- additional security precautions have been taken to protect objects of potential terrorist attacks, including Interior Ministry buildings at all levels;
- security of embassies and consulates of the United States of America and its allies has been tightened;
- discrete measures have been taken to secure objects which are frequently used by United States citizens (businesses, schools, foundations, humanitarian organisations etc.);
- security of diplomatic missions belonging to Islamic countries has been strengthened, as well as Islamic places of worship and any other objects belonging to the Islamic community has been tightened;
- security of sites belonging to the Jewish community has been tightened;
- the location of refineries, oil depots and waterworks in major urban centres has been identified; and special links with relevant personnel have been established in order to improve security conditions there;
- plans for the protection of objects and facilities, which have particular national security importance (finance, maritime, transportation, justice, health, science and technology, shipping and hidrometeorology) have been developed;
- the regular security control of the aforementioned objects has been intensified;
- special attention is being directed towards individuals from countries which are considered to be of high or medium risk concerning migration (visa requests, permanent residents, citizenship applications, business activities etc.).

Security measures in air travel

- security checkpoints have been established at all airports;
- control of airport areas which are ordinarily not accessible has been tightened;
- contacts have been established with airport personnel in order to increase security (baggage checks etc.);
- the Ministry of the Interior has adapted plan for operation "SAR", which involves the search and rescue of aircraft;
- the Ministry of the Interior has emphasised the importance of operation "PAUK", which involves special measures to be taken in case of extraordinary circumstances in air travel;
- the Ministry of the Interior officials are implementing stringent control of airport security personnel at all Croatian airports;
- considering the fact that current legislation permits authorised security officials of the Ministry of and the Ministry of Justice, to carry small arms into the cabins of aircraft in exceptional cases, a draft of a Handbook on Conditions for Carrying of Small Arms in Aircraft, has been proposed to the Ministry of Maritime Affairs, Transport and Telecommunications;
- in co-operation with the national airlines it has been determined which objects may be carried into the cabins of aircraft, and the media has been informed accordingly;
- a National Program for Protection of Air Trafficking will be proposed by the National Commission for Protection of Air Trafficking, by which Local Commissions for Protection of Air Trafficking in all airports should be established.

MINISTRY OF DEFENCE

104. The Ministry of Defence has undertaken a number of measures so as to adequately address the threat of terrorism. Some of these measures are already operational or are in the process, while others are still being

considered in terms of assessment of the Croatian defence infrastructure and obstacles posed by national legislation in introducing some of these measures.

105. Concrete activities and forms of support to the Anti-Terrorist Coalition:

- intensified co-operation in the field of intelligence, i.e. raising its standards
- intensified drafting and expediting procedures of harmonising and passing a legal framework governing the subject matter, such as:

  a) package of defence and other acts;
  b) signing of an Intelligence Data Exchange Agreement, on a bilateral as well as multilateral basis;
  c) signing of a Classified Information Non-disclosure Agreement, on a bilateral as well as multilateral basis.

- making available the use of its infrastructure for the purposes of combating international terrorism:

  a) seaports;
  b) air bases;
  c) other infrastructure.

106. The Ministry of Defence has organised the following international conferences: "CBMTS-Industry I, Eco terrorism, Chemical and Biological Warfare without Chemical and Biological Weapons", which took place in Zagreb and Dubrovnik from the 25th to the 31st of October 1998; "The CBMTS - Industry II, World Congress on Chemical and Biological Terrorism", which took place in Dubrovnik from the 22nd to the 27th of April 2001. The main topic of these conferences was chemical and biological terrorism as one of the primary threats to world peace and security. A Congress exercise was held which demonstrated the terrorist use of chemical, biological and toxin agents, rapid response, identification and detection of the used agent, handling large numbers of poisoned persons and decontamination of the contaminated area. This exercise was filmed and is currently used in a number of countries in the education of specialised military units and civilian organisations for the management of mass-casualties disasters.

MINISTRY OF MARITIME AFFAIRS, TRANSPORT AND TELECOMMUNICATIONS

107. The Ministry of Maritime Affairs, Transport and Telecommunications has undertaken the following measures:

108.1. Security Measures in Sea Navigation:

The Sea Navigation Inspectorate has proposed the following security measures aimed at reducing security risks from terrorist attacks:

- strict and repeated patrolling of port terminals and ships at anchor by port authority officers;
- strict inspection of high-risk ships, especially their facilities for fire-fighting and prevention of sea pollution, including emergency exercises with the crew according to ISM Code;
- ensuring all-time readiness of port travellers and other vessels suitable for intervention in case of emergency;
- keeping services on duties within the seafaring companies of special interest to national security;
- port authorities have to ensure that ships at anchor maintain vigilance, especially where illegal boarding is possible;
- rules of procedures applicable to ports are to be strictly observed;
- tankers and other ships with hazardous cargo are to be anchored in places where they pose a minimum threat to other ships and port facilities;

- all institutional and corporate parties involved in maritime affairs have been requested to prepare risk management instructions for safety on board, including guidance to the crew as to how to respond to terrorist attacks.

108.2. Security measures taken in road traffic:

Croatian road carriers have been warned to take the following measures:

- in bus transport
  - luggage should be handled only by the crew (driver or conductor); only luggage belonging to passengers can be accepted;
  - control of bus passengers on entry and exit;
  - telephone numbers cellular telephones of police stations to be given to the bus crew
- in truck transport
  - loading/unloading to be carefully watched by the crew;
  - telephone numbers and cellular telephones of police stations to be given to the truck driver;
  - freight vehicles should be parked or garaged in guarded places.
- in road infrastructure
  - intensified patrolling service, particularly focused on bridges, underpasses, overpasses, tunnels, crossroads, etc.

108.3. Security measures taken in railway traffic:

The Croatian Railways have taken the following measures:

- heightened working and operational discipline;
- continuous contact with the police is established;
- heightened vigilance and guarding of major facilities;
- special security instructions to railway field workers are given;
- protection of open and enclosed areas within the Railways competence is stepped up;
- removal of sundry material from the railway line belt is requested;
- increased vigilance is required from train crews;
- special caution during state border exchange of wagons is requested;
- special attention is paid to unknown consignments;
- intensified guard and inspection service is ensured;

108.4. Measures undertaken to increase air-traffic security:

Pursuant to the orders issued by the Ministry of Maritime Affairs, Transport and Telecommunications, all airports in the Republic of Croatia should immediately in co-operation with police:

- reinforce the existing measures in the areas where aircraft operations are carried out;
- reinforce and strictly apply the control of travel documents and passes for moving about the airport;
- apply protection measures to all persons entering protected areas (passengers and staff) and their baggage;
- apply reinforced protection measures to all vehicles entering the protected area, as well as stricter control of passes;
- more closely inspect and identify any unaccompanied baggage,
  - perform 100% maximum alert check of separate baggage,
  - perform 100% maximum alert check of passengers and their hand baggage,
  - increase the share of manually searched passengers and the baggage they bring into aircraft to 20% on all flights,

  - prevent bringing into aircraft any smaller sharp objects (scissors, darts, knitting needles, letter openers, broad-blade razor blades, knives of any length)
  - reinforce the measures for the protection of goods and mail, and put large-size goods that have not been X-ray checked on a 24-hour wait;
- all public transport air carriers in the Republic of Croatia must immediately reinforce their inspection of the aircraft prior to the boarding and after the disembarkation of passengers.

The Ministry of Maritime Affairs, Transport and Telecommunications has proposed additional measures for improving air-traffic safety. It has suggested:

- that the National Commission for Air Traffic Protection should include representatives of the air inspection;
- the aircraft inspection should be fully staffed (current staffing: 25%) and that the number of inspections and their mobility be increased.

108.5. Security measures taken in postal and telecommunication services:

- 2-phase project has been introduced for protection of postal employees; among other things the project provides for video control of cash-carrying postal vehicles and post offices;
- instructions with regard to the operation of post and telecommunications sectors have been forwarded to the Croatian Telecommunications Company (HT), the National Post Office (HP), and the National Broadcasting Company (HRT), by the Ministry of Maritime Affairs, Transport and Telecommunications; they indicated the need to implement the prescribed security measures, as well as the need to undertake additional security measures for preventing possible adverse effects of terrorist attack on persons and property; the Ministry of Maritime Affairs, Transport and Telecommunications should be informed by the HT, HP and HRT about measures undertaken.

109. In addition to aforesaid, there is a legal obligation of making the telecommunication and radio facilities available to competent authorities (such as judiciary, police and military) in the event of war or threat to national security, one of which certainly is international terrorism.

MINISTRY OF HEALTH

110. The Ministry of Health requested all medical institutions to implement the general security and protection measures, specifically:

- to provide free and unimpeded passage to ambulances, and the free passage on fire escape and emergency evacuation routes;
- increased control of the movement of visitors and staff at medical premises, particularly in hospitals;
- to check the mechanical and electronic security systems;
- to organise increased vigilance and emergency duty for the possibility of sudden accidents and disasters.

Additional measures taken by the Ministry of Health are as follows:

- in early October, sanitary inspections on the border and in the Counties were sent a circular letter requiring them to increase the control of foodstuffs and general-purpose consumables, particularly with regard to the import, transport and storage of poisons from Groups I and II;
- the control of the persons arriving from the countries in which diseases have been noted that require quarantine, has been reinforced;
- sanitary inspectors in Counties have received orders to reinforce sanitary inspections and submit reports to the Ministry of Health on the state of public water supply utility systems, industrial food processing, and on the production, distribution, use and transportation of poisonous substances;

- the Commission for Co-ordination in Case of Emergency has been set up, including the members of the Ministry of Health and clinical and preventive medical institutions, with precisely defined responsibilities in the prevention of consequences in case of threatened or carried out terrorist attack;
- Headquarters for Prevention has been set up with the National Public Health Institute with regard to the threat of biological terrorism and the occurrence of anthrax in the world, responsible for preventive and diagnostic activities and environmental sanitation (see paragraph 53 of this report).

111. The Ministry of Health has proposed additionally preventive measures and activities for the protection of lives and health in case of radioactive/biological/chemical attack. It has been noted that it is necessary to prepare a Draft Government Plan of Measures for Protection against Ionising Radiation and Other Attacks with Weapons of Mass Destruction. The establishment of a Working Group for the preparation of the aforementioned prevention plan is underway. The preparation of this document, and particularly its future operationalisation, require the involvement of a larger number of experts and additional financial support.

V. FINANCIAL AND TECHNICAL ASSISTANCE

112. The Republic of Croatia would welcome further international assistance in the additional training of its experts in the field of terrorism and related areas (e.g. training of law enforcement officials, judges, state prosecutors, anti-money laundering experts, emergency assistance personnel, customs officers, etc.). The relevant state bodies have already prepared, or are preparing programmes for additional training of personnel involved in combating terrorism. For example, the Ministry of Justice has recently prepared a programme for the education and training of personnel involved in the implementation of criminal law for which additional funding is necessary. The Ministry of Health is preparing a Plan of Measures for Protection against Ionising Radiation and Other Attacks with Weapons of Mass Destruction. The Republic of Croatia would welcome technical and financial assistance in preparing and implementing this Plan, which basically relates to preventive measures and activities for the protection of lives and health in case of radioactive/biological/chemical attack (see paragraph 111 of this report).

113. The Republic of Croatia submits to the Security Council its request for financial and technical assistance for the improvement and setting up of new information systems (e.g. on-line networking between Anti Money-Laundering Department and financial institutions; on-line networking between border-crossing points and central data-processing headquarters in the Ministries of the Interior and Finance, etc.), which are relevant for the efficient suppression of terrorism.

114. The Republic of Croatia also submits to the Security Council its request for technical and financial assistance in strengthening and improving its early-warning mechanism pertaining to terrorism. This assistance should encompass educational programs, as well as a provision for appropriate equipment.

115. The Republic of Croatia further submits to the Security Council a request for financial assistance for the project entitled "Terrorism and Illicit Trafficking in Explosives, Chemical Agents, Nuclear Material and Humans", prepared by the Institute "Ruđer Bošković". As already mentioned in paragraph 73 of this report, the purpose of this proposal is to enhance border control, and consequently reduce the threat of terrorist attack.

116. If the Security Council is not in the position to ensure technical and financial assistance requested by the Republic of Croatia in paragraphs 112 to 115, it may wish to recognise the relevancy of Croatia's requests and the usefulness of the above-mentioned project by recommending to regional organisations and initiatives their financing within existing regional programs and funds. Such a recommendation by the Security Council would represent an important contribution towards Croatia's efforts to suppress international terrorism.

VI. CONCLUSION

117. Due to the comprehensive and persistent work to suppress and monitor any potential security threat regarding possible terrorist attacks, as well as actions already taken in implementing Security Council resolution 1373 (2001), the current security situation in the Republic of Croatia is stable. There is neither credible evidence of potential terrorist activities against the Republic of Croatia nor of activities in the Republic of Croatia targeted against other countries.

118. The Republic of Croatia shall continue to fully support and participate in efforts of the international community aimed at strengthening and expanding co-operation among states so as to more effectively suppress and ultimately eradicate international terrorism. The Government of the Republic of Croatia is committed to combat international terrorism on a long-term basis at the national, regional and global level. It shall work together with other United Nations Member States, the Counter-Terrorism Committee of the Security Council, and all other relevant United Nations bodies, to combat all forms and manifestations of international terrorism.

119. The Republic of Croatia holds that the effective fight against international terrorism should not be confined to fighting terrorist organisations and terrorist acts, but should also address the root causes of terrorism. The emphasis of our fight against terrorism should therefore be put on prevention, rather than merely on the retaliatory suppression of terrorist acts.

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Security Council

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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Guatemala, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72122 (E) 230102 250102

Annex

Letter dated 24 December 2001 from the Permanent Representative of Guatemala to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: Spanish]

In accordance with paragraph 6 of resolution 1373 (2001), I am pleased to submit herewith for consideration by the Committee you chair a succinct report on the steps taken by the Government of Guatemala to comply with the commitments contained in said resolution.

As the report indicates, this is a first approach to the topic. The authorities responsible for the various matters addressed by resolution 1373 (2001) have identified the main shortcomings and thus the main issues that would benefit from technical cooperation which are as follows:

- Immigration services and travel documents;
- Airport security;
- The link between drug trafficking and terrorism;
- Arms trafficking;
- Money-laundering.

(*Signed*) Gert **Rosenthal**
Permanent Representative

Enclosure

Report on the steps taken by the Government of the Republic of Guatemala to implement Security Council resolution 1373 (2001)

Introduction

Pursuant to paragraph 6 of Security Council resolution 1373 (2001), the Government of the Republic of Guatemala is submitting this report on its domestic legislation to the Security Council Committee responsible for monitoring the implementation of that resolution.

Almost immediately after the events of 11 September, the Government of Guatemala, in consultation with the other Central American Governments (see document S/2001/1136), took steps to help combat terrorism within the framework of the personal, civil and political liberties inherent in a democratic society. The Minister for Foreign Affairs himself became Guatemala's focal point for the purpose of communication with the Counter-Terrorism Committee. To that end, a task force was formed within the Ministry of Foreign Affairs, together with an Inter-Agency Commission encompassing all government entities with responsibilities in the areas covered by Security Council resolution 1373 (2001). On 7 November 2001, the post of Inter-Agency Security Coordinator was established, with the functions described below. The Coordinator is a member of the Inter-Agency Commission, which is chaired by the Minister for Foreign Affairs.

At the same time, steps were taken to expedite the ratification of the main body of international instruments relating to the fight against terrorism. On 23 October 2001, Guatemala signed the International Convention for the Suppression of the Financing of Terrorism, and the Congress of the Republic has already approved, by Decree No. 70-2001, the International Convention for the Suppression of Terrorist Bombings; the instrument of ratification will be deposited shortly.

The information contained in this report should be viewed as a first approach to the topic that outlines the institutional and legal framework. The report concludes with a summary of issues in the legislative, regulatory and institutional spheres that would benefit from international technical cooperation.

Paragraph 1 of Security Council resolution 1373 (2001):

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts.

What measures, if any, have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

On 28 November 2001, the Guatemalan Congress adopted Decree No. 67-2001, the Act Against the Laundering of Money or Other Assets. That Act entered into force on 11 December 2001. It establishes the offence of laundering money or other assets and provides for measures aimed at its prevention and punishment. It confers new functions on the Superintendency of Banks, bans anonymous accounts and establishes recording and reporting requirements for the

banking system. It also establishes the Special Audit Office within the Superintendency of Banks.

Article 2 of the Act provides as follows:

"Offence of laundering money or other assets. The offence of laundering money or other assets is committed by any person who, acting alone or through another person:

(a) Invests, converts, transfers or carries out any financial transaction involving property or funds, and knows, or, by reason of his or her post, employment, occupation or profession, is obligated to know, that such property or funds are the product or proceeds of or have originated in the commission of an offence;

(b) Acquires, possesses, administers, holds or uses property or funds, and knows, or, by reason of his or her post, employment, occupation or profession, is obligated to know, that such property or funds are the product or proceeds of or have originated in the commission of an offence;

(c) Conceals or prevents the determination of the true nature, origin, location, destination, movement or ownership of property or funds or of rights relating to such property or funds, and knows, or, by reason of his or her post, employment, occupation or profession, is obligated to know, that such property or funds are the product of the commission of an offence."

Article 398 of the Penal Code provides, with respect to illegal armed groups, that persons who organize, form or direct armed groups or militias other than those of the State shall be sentenced to 3 to 10 years' imprisonment, and that the same penalty shall be imposed on those who provide assistance or economic cooperation for the maintenance of such groups.

Lastly, and in more general terms, the State of Guatemala has established the post of Inter-Agency Security Coordinator, by Government Decision No. 429-2001, which was published in the Official Gazette on 17 October 2001. The Coordinator has the following functions:

- Proposing, for the approval of the President of the Republic, policies and strategies to prevent the commission of terrorist acts at the national and international levels;
- Proposing, for the approval of the President of the Republic, the actions needed to prevent, by legal means, the financing and preparation of terrorist acts in the country;
- Exchanging operational information on this subject with international entities of a similar nature, in accordance with domestic law and the practices of international law;
- Proposing, for the consideration of the President of the Republic, actions to be taken by the Ministries of the Interior, Foreign Affairs and Defence and by the Secretariat of Strategic Analysis of the Office of the President to prevent terrorist attacks;

- Promoting the coordination of initiatives at the national, regional and international levels to strengthen the response to serious threats to international peace and security;

- Promoting the implementation of actions to strengthen government policies in the areas of immigration, drug trafficking and counter-terrorism at airports, seaports and border crossing points.

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts.

What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

Criminal law

General principle: In Guatemalan law, the Penal Code establishes degrees of participation in the commission of acts that constitute offences, indicating that perpetrators are persons who cooperate in the perpetration of an offence, whether in its preparation or in its execution, by means of an act without which the offence could not have been committed (art. 36, item 3), and defining as accessories persons who provide the means to carry out the offence (art. 37, item 3).

In accordance with this general principle, persons who provide economic cooperation or who supply the means for the commission of illegal acts which the Penal Code establishes as offences which compromise the foreign relations of the State, offences of international significance, offences against public order and offences against social peace are subject to penalties similar to those applicable to the direct perpetrators; the penalty is reduced by one third if the person's degree of participation is that of complicity (arts. 62 and 63 of the Penal Code).

Support for offences by illegal armed groups: The Guatemalan Penal Code, Legislative Decree No. 17-73 of the Congress of the Republic, establishes offences against social peace; within this category, article 398 of this body of laws penalizes by 3 to 10 years' imprisonment persons who provide assistance or economic cooperation for the maintenance of armed groups or militias other than those of the State.

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities.

What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

Economic cooperation for the maintenance of terrorist groups is penalized by 3 to 10 years' imprisonment (Penal Code, art. 398, second paragraph).

In view of the close relationship between money-laundering and international terrorism, among other offences, it is worth noting the provisions of the Act Against the Laundering of Money or Other Assets, articles 11 and 12 of which provide as follows:

Article 11

"**Precautionary measures**. The trial judge or court may order at any time, without prior notice or hearing, any precautionary or security measure established by law to ensure the continued availability of the property, product or instruments proceeding from or related to the offence of laundering money or other assets, when the Office of the Public Prosecutor so requests. Such request shall be considered and decided upon by the judge or court immediately."

Article 12

"***Periculum in mora***. In case of *periculum in mora*, the Office of the Public Prosecutor may order the confiscation, seizure or freezing of property, documents and bank accounts, but it must request judicial approval immediately, providing the respective inventory of such property, documents and bank accounts and indicating the place at which they are situated. If the judge or court does not confirm the precautionary measure, it shall order forthwith the return of the property, documents or bank accounts in question."

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons.

What measures exist to prohibit the activities listed in this subparagraph?

Criminal law

The Guatemalan Penal Code, Legislative Decree No. 17-73 of the Congress of the Republic, establishes offences against social peace; within this category, article 398 of this body of laws penalizes by 3 to 10 years' imprisonment persons who provide assistance or economic cooperation for the maintenance of armed groups or militias other than those of the State.

Paragraph 2 of Security Council resolution 1373 (2001):

2. *Decides also* that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists.

What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Criminal law

Offence of illegal armed groups: The Guatemalan Penal Code, in its Book II, Title XII, Chapter V, establishes so-called offences against social peace; within this category, article 398 of this body of laws establishes the offence of illegal armed groups, providing that persons who organize, form or direct armed groups or militias other than those of the State shall be sentenced to 3 to 10 years' imprisonment.

Offence of militancy in illegal groups: The Guatemalan Penal Code, in its Book II, Title XII, Chapter V, establishes so-called offences against social peace; within this category, article 399 establishes the offence of militancy in illegal groups, providing that any person who is a member of the illegal groups referred to in the preceding article [398] shall be sentenced to two to eight years' imprisonment.

Offence of possessing and bearing firearms: The Guatemalan Penal Code, in its Book II, Title XII, Chapter V, establishes so-called offences against social peace; within this category, article 400 establishes the offence of possessing and bearing firearms, providing that the possession and bearing of firearms or weapons of war, or of ammunition or accessories for them, the use of which is reserved exclusively for the Army of the Republic, shall be penalized by six months' to three years' imprisonment and a fine.

Offence of stockpiling arms or ammunition: The Guatemalan Penal Code, Legislative Decree No. 17-73, in its Book II, Title XII, Chapter V, establishes so-called offences against social peace; within this category, article 401 establishes the offence of stockpiling arms or ammunition, providing that any person who has or establishes a stock of arms, ammunition or other military supplies, the use of which is reserved exclusively for the Army of the Republic, shall be sentenced to two to six years' imprisonment and a fine.

Offence of trafficking in explosives: The Guatemalan Penal Code, Legislative Decree No. 17-73, in its Book II, Title XII, Chapter V, establishes so-called offences against social peace; within this category, article 402 establishes the offence of trafficking in explosives, providing that any person who illegally has in his possession, manufactures, transports, traffics in or supplies in any form explosive, flammable or incendiary or asphyxiating substances and instruments or devices for causing them to explode shall be sentenced to 10 to 15 years' imprisonment.

Chapter V, article 245 of the Political Constitution of the Republic of Guatemala establishes the organization and operation of armed groups not regulated by the laws of the Republic as a punishable offence.

Decree-Law No. 38-89 of the Congress of the Republic of Guatemala, enacted to regulate the bearing of arms, is currently in force and is being studied with a view to its future amendment to improve the control and allotment of arms.

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information.

What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

Security relations are maintained among State agencies and at the international level, especially the Central American level, for the prevention of all criminal acts.

As a result of the terrorist attacks on New York's Twin Towers on 11 September 2001, the Presidents of the Central American countries (Guatemala, Belize, El Salvador, Honduras, Nicaragua and Costa Rica), meeting in Tegucigalpa, Honduras, on 19 September 2001, issued a declaration entitled "Central America united against terrorism", which indicated the Presidents' decision to convene an extraordinary meeting of the members of the Central American Security Commission (Legal Subcommission, Public Safety Subcommission and Defence Subcommission) to draw up a regional plan to combat terrorism.

On 25 September 2001, the Central American Security Commission met in Tegucigalpa, Honduras, and drew up the Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities, which provides for the preparation of individual plans for each country, with the participation of the public safety and defence machinery to carry out activities in the areas of intelligence, physical security of installations and the use of military and public safety personnel in special operations to neutralize terrorist acts throughout the national territory.

Guatemala's efforts are supported by the following international conventions to which it is a party:

On 8 November 1979, the Congress of the Republic of Guatemala approved the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, adopted by the Organization of American States in Washington on 2 February 1971. This Convention was ratified by Guatemala's executive branch on 21 November 1979 and published in the Official Gazette of the Republic on 13 March 1980.

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, which promotes effective international cooperation and the prevention and suppression of such criminal acts. This Convention was duly ratified.

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988. Duly ratified.

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, done at Paris on 13 January 1993, signed by the Government of Guatemala on 14 January 1993, approved by the legislature on 31 August 2000 and ratified by the President of the Republic. The instrument of ratification will be deposited shortly.

Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the

Subsoil Thereof, opened for signature in Washington, London and Moscow on 11 February 1971. This Treaty has been ratified.

In addition, Guatemala is completing the formalities with respect to the International Convention for the Suppression of Terrorist Bombings, opened for signature in New York on 12 January 1998. It is currently awaiting ratification by the President of the Republic.

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens.

What legislature or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

When the Regulations for the Protection and Determination of the Status of Refugees in the Territory of the State of Guatemala were issued, it was established in Government Decision No. 383-2001 that refugee status could not be granted to anyone who had committed a crime against the peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; or acts contrary to the purposes and principles of the United Nations.

International legislation

On 8 November 1979, Congress adopted the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, adopted by the Organization of American States in Washington on 2 February 1971.

This Convention was ratified by the Guatemalan executive branch on 21 November 1979 and published in the Official Gazette of the Republic on 13 March 1980.

By Decree No. 44-78 of 23 August 1978, Congress adopted the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, which promotes effective international cooperation and the prevention and punishment of the offences in question; it was duly ratified.

By Decree No. 1-94 of 15 January 1994, Congress adopted the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988; it was duly ratified.

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens.

What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

Criminal law

Crime of interference: Book II, Title XI, Chapter III of the Guatemalan Penal Code covers "Crimes which compromise the foreign affairs of the State". Article 371 thereof defines the crime of interference, stating: "Anyone who, in Guatemalan territory, carries out activities designed to modify the political system of another State through violence shall be sentenced to one to three years' imprisonment and a fine."

Crime of hostile acts: Book II, Title XI, Chapter III of the Guatemalan Penal Code covers "Crimes which compromise the foreign affairs of the State". Article 372 thereof defines the crime of hostile acts, stating: "Anyone who, without the approval of the Guatemalan Government, commits hostile acts against another State which might give rise to a declaration of war against Guatemala shall be sentenced to two to eight years' imprisonment. Anyone who, under the same circumstances, exposes Guatemalans to potential humiliation or reprisals against their person or property or alters the friendly relations between the Government of Guatemala and a foreign Government shall also be subject to such a sentence. The sentence shall be doubled if the said hostile acts result in war."

Crimes of international scope: Book II, Title II, Chapter IV of the Guatemalan Penal Code covers "Crimes of international scope", including the crime of genocide (art. 376), incitement to genocide (art. 377), death of a foreign head of state (art. 379) and human rights violations (art. 378), which carry heavy sentences of between 5 and 50 years' imprisonment. In the punishment of such crimes, the international legal principle of reciprocity shall prevail.

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts.

What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentences given.

Prosecution of persons who commit terrorist acts:

The Constitution of the Republic of Guatemala establishes that it is the State's duty to ensure that justice is served; this implies the obligation to bring to justice those responsible for the commission of unlawful acts, including persons who commit terrorist acts and related offences.

The Supreme Court has the power to hand down sentences and to ensure the execution thereof; no one may be convicted, punished or made subject to security or correction measures without a definitive sentence obtained through proceedings conducted in accordance with articles 2 and 203 of the Constitution, article 1 of the Penal Code and article 4 of the Code of Criminal Procedure.

The international conventions on domestic and international terrorism which have been signed, adopted and ratified by Guatemala and which therefore have the

force of law therein establish the State's duty to ensure the prosecution of those presumed responsible for terrorist and related crimes.

These international instruments include: (a) the Convention to Prevent and Punish the Acts of Terrorism Taking the Forms of Crimes against Persons and Related Extortion that are of International Significance; (b) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; (c) the International Convention for the Suppression of Terrorist Bombings; and (d) the International Convention for the Suppression of the Financing of Terrorism.

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings.

What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

Responsibilities in the area of reciprocal international assistance

General principle: Guatemala conducts its relations with other States in accordance with international principles, rules and practices with a view to the maintenance of peace and freedom (Constitution, art. 149).

International legislation: Article 11 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation establishes States parties' responsibility to afford one another the greatest measure of assistance in connection with any criminal investigation, criminal proceedings or extradition proceedings brought in respect of the offences defined in the relevant instruments, including with respect to efforts to obtain any evidence in its possession which is necessary to the said proceedings.

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.

How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

The Department of Immigration is responsible for ensuring that nationals' and foreigners' entry into, stay in and exit from Guatemalan territory are carried out in accordance with the law (Immigration Act, art. 4 (3); Legislative Decree No. 95-98).

For entry into Guatemalan territory, foreigners are required to present a valid travel document and the relevant visa, except as established in the international treaties, agreements and conventions to which Guatemala is a party (Immigration Act, art. 73).

The Department of Immigration is empowered to deny entry into the country to foreigners under article 102 of the Immigration Act and may compel transport companies to return such persons to their place of origin.

The Department of Immigration is also empowered to carry out immigration inspections of the passengers, crew and staff of means of transport during their entry into, stay in or exit from the country. It is also empowered to determine the points at which inspections will be made (Immigration Act, art. 99).

In that regard, a new, more reliable passport with a series of security measures that make forgery impossible was issued as from 17 September 1999.

Immigration controls include the creation and coordination of services relating to nationals' and foreigners' entry into and exit from the territory of the Republic through verification of their documents and consideration of problems caused by such movement. It also includes monitoring of compliance with legislation regarding foreigners' stay and activities in Guatemala (Immigration Act, art. 87).

It is unlawful for foreigners to remain in Guatemala if any of the following situations apply: (1) entry into the country at a point not authorized for that purpose; (2) entry without passing through immigration control; (3) failure to comply with the regulations governing entry or stay under the Immigration Act; or (4) continued presence in the country after expiry of the authorized time period (Immigration Act, art. 89).

Entry into the country shall take place only through Department of Immigration monitoring points, the number, nature and location of which shall be determined by the Ministry of the Interior upon the recommendation of the Department of Immigration (Immigration Act, art. 90). However, it must be acknowledged that, as in many countries, there are under-monitored areas along the border, a fact which facilitates the unofficial movement of persons across it.

All foreigners are subject to immigration controls upon arrival in the country in order to determine whether they meet the criteria established by law (Immigration Act, art. 912).

The Department of Immigration may prohibit the entry or terminate the stay of foreigners for reasons of public order, national interest or State security. In order to terminate a foreigner's stay in the country, the Department of Immigration must issue a justified order (Immigration Act, art. 92).

Criminal law

Articles 321 to 327 of the Guatemalan Penal Code define crimes of document forgery, classifying them as offences against the public credit and establishing sentences of two to six years' imprisonment and fines for anyone who manufactures or uses forged documents.

The immigration authorities are responsible for implementing ongoing security measures to detect falsified documents upon entry into or exit from the country with the help of public security forces units (the National Civil Police); in situations exceeding the latter's capacity, Guatemalan army units provide immediate support.

The immigration inspection points along Guatemala's borders are currently being standardized.

Security is being improved throughout the country at immigration and customs inspection points and at the airports.

Paragraph 3 of Security Council resolution 1373 (2001):

3. *Calls* upon all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups.

What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

The appointment of members of a multidisciplinary committee has been under way since 2002; it will make amendments to the procedures followed by the legal system in monitoring the domestic and international movement of firearms and their parts, components and ammunition and the responsibilities of the various Guatemalan State bodies involved in matters relating to that issue.

The National Civil Police has implemented a contingency plan, the primary purpose of which is to increase the safety of accredited embassies in Guatemala in order to prevent terrorism-related acts.

On the basis of the Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities, the public security and defence forces are making joint efforts to implement a mechanism for the exchange of information between intelligence bodies at both the national (the Director of Intelligence of the Guatemalan army, the National Civil Police and other relevant bodies) and the international (intelligence agencies) levels.

Within each country, along the borders and at customs posts, ports and airports, intelligence activities and operatives are being deployed in connection with the registration of persons, vehicles and packages of all kinds; the verification of documents and their owners; and the gathering of any information that can assist in the detection of terrorist acts committed or planned by national or international groups.

Security measures for the storage, transport and use of products sold under Government licence pursuant to Decree-Law No. 123-85 of 29 November 1985 and monitoring of permits for the import of chlorate are being strengthened.

Mechanisms for monitoring the use of weapons have also been increased at the national level by the Department of Arms and Munitions Control and at the international level, with regard to the possession and bearing of small- and large-calibre (defensive and offensive) weapons and the use, transport and purchase of ammunition, through the intelligence agencies of each country.

Joint operations of the public security forces and the Guatemalan army have also been expanded through the use of canine units at ports, airports and border crossings in order to detect any unlawful act with potential links to terrorist activities.

Security measures have also been stepped up at La Aurora International Airport, and security is being strengthened and enhanced at all ports, airports and border crossings.

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts.

What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

As already indicated, Congress recently promulgated Decree-Law No. 67-2001, Act Against the Laundering of Money and Other Assets, which is now in effect in Guatemala.

Furthermore, the Minister for Foreign Affairs received information from the United Nations and the Organization of American States, and also from other States, concerning anti-terrorist action taken, and has given the various relevant State agencies implementation and execution instructions.

Resolution AC-02-1998 of 20 February 1998 contains the Agreement on the Exchange of Information among Members of the Central American Council of Controllers of Banks, Insurance Companies and Other Financial Institutions. In implementation of the Agreements, the Guatemalan Superintendency of Banks has signed Conventions on the exchange of information with Panama and El Salvador, and a number of other conventions are being processed.

Owing to the existing relationship between money-laundering and funds that may be used for financing terrorist acts, any information exchanged between States is of great importance. In that connection, the Act Against the Laundering of Money and Other Assets stipulates that one of the functions of the Special Audit Office is "the exchange of information with counterpart entities of other countries, for the purpose of analysing cases relating to the laundering of money and other assets, following the joint signature by Guatemala and such entities of memorandums of understanding for other cooperation agreements", (art. 33 (d)).

Article 34 of the Act stipulates the following:

"**Reciprocal legal assistance.** With a view to facilitating the prosecution and investigation of offences covered by this Act, the Office of the Public Prosecutor and the Special Audit Office, as well as any other competent authority, may provide assistance to and seek assistance from the competent authorities of other countries in order to:

- Obtain evidence or hear statements by individuals;
- Present legal instruments;
- Carry out inspections and effect seizures;
- Examine articles and places;
- Provide information and evidence;
- Supply originals and authentic copies of documents and files concerning a given case, including banking, financial and commercial documents;

- Identify products, instruments and other forms of evidence;
- Provide or seek any other type of reciprocal judicial assistance permitted under domestic law."

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist acts and to take action against perpetrators of such acts.

What steps have been taken to cooperate in the areas indicated in this subparagraph?

International legislation

Congress, through Decree-Law No. 73-79, adopted the Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance, article 8 of which indicates that States accept the obligation to cooperate in taking all measures they consider effective in conformity with their own laws, especially those laid down in the above-mentioned convention to prevent and punish acts of terrorism.

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999.

What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Traditionally Guatemala has followed a policy of maintaining friendly relations with other States, engaging in international cooperation and repudiating any kind of terrorist activities. Accordingly, it has signed a number of major international instruments to combat terrorism:

- On 8 November 1979, Congress adopted the Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance, concluded by the Organization of American States in Washington on 2 February 1971;

The Convention was ratified by the Guatemalan executive branch on 21 November 1979 and published in the Guatemalan Official Gazette on 13 March 1980.

- Through Decree No. 44-78 of 23 August 1978, Congress adopted the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed in Montreal on 23 September 1971, which promotes effective international cooperation and the prevention and suppression of such offences;
- Through Decree No. 1-94 of 15 January 1994, Congress adopted the Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed in Montreal on 24 February 1988;

The three above-mentioned Conventions have been ratified by the Government of Guatemala.

- Through Decree No. 70-2001, Congress adopted the International Convention for the Suppression of Terrorist Bombings, opened for signature in New York on 12 January 1998. This Convention will be ratified shortly;
- Through Decree-Law No. 71-2001 of 29 November 2001, Congress adopted the International Convention for the Suppression of the Financing of Terrorism, opened for signature at United Nations Headquarters in New York on 10 January 2000. This Convention will be ratified shortly.

Guatemala is also a party to the following international conventions and protocols:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft;
- Convention for the Suppression of Unlawful Seizure of Aircraft;
- Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
- International Convention against the Taking of Hostages;
- Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection and the annex thereto;
- Convention on the Physical Protection of Nuclear Material;
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction;
- Convention of 1951 relating to the Status of Refugees and Protocol of 1967 relating to the Status of Refugees;
- Havana convention on the right of asylum;
- Montevideo Convention on Political Asylum;
- Caracas Convention on Territorial Asylum;
- Caracas Convention on Diplomatic Asylum.

The Protocol Additional to the Agreement between Guatemala and the International Atomic Energy Agency for the application of safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Treaty of Non-Proliferation of Nuclear Weapons. It has been signed but not yet ratified.

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001).

Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

Guatemala conducts its relations with other States in accordance with international principles, rules and practices with a view to the maintenance of peace and freedom, observance of and the defence of human rights, and the strengthening of the democratic processes and international institutions that guarantee mutual advantage and equity among States (Constitution, art. 149).

As a member of the United Nations, of the Organization of American States and of many other regional and international organizations and forums, Guatemala is a signatory to a great number of bilateral and multilateral treaties, conventions, agreements and resolutions, which, once they have been adopted and ratified by Guatemala, are incorporated into domestic law and have the force of law.

Primacy of international law

Guatemalan law states the general principle that in the area of human rights, treaties and conventions accepted and ratified by Guatemala have primacy over domestic law (Constitution, art. 46).

Incorporation of international law into domestic law

Under articles 171 (l) and 172 of the Constitution, it is within the competence of the legislature to adopt, before ratifying them, international treaties, conventions and arrangements calling for a commitment on the part of Guatemala. Traditionally, Guatemala, as a democracy and a State subject to the rule of law, has followed an international policy of observing and complying with the resolutions of the United Nations Security Council and the international courts, and it continues to do so.

In addition, Guatemala is carrying out the necessary formalities in connection with the following international instruments to combat terrorism:

- International Convention against the Recruitment, Use, Financing and Training of Mercenaries (still to be adopted by Congress and then ratified);
- Inter-American Convention against the Illicit Manufacturing and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials.

Thus, the only instrument remaining to be ratified will be the Central American Convention for the Prevention and Suppression of the Laundering of Money and Related Assets by means of Illicit Trafficking in Drugs and Related Offences. It was signed in Panama on 11 July 1997 and ratified by Congress through Decree-Law No. 73-2000, which was published in the Official Gazette of 2 July 2001.

On 14 September 2001, Government Decision No. 383-2001, containing the Regulations for the Protection and Determination of the Status of Refugees in the Territory of the State of Guatemala, was issued.

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts.

What legislation, procedures and mechanisms are in place for ensuring asylum-seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

Guatemala is a party to the Convention relating to the Status of Refugees, adopted in Geneva on 28 July 1951, and the Protocol relating to the Status of Refugees, signed in New York on 31 January 1967. In implementation of the principles and norms laid down in the above-mentioned international instruments, the President of Guatemala issued Government Decision No. 383-2001 of 14 September 2001, which contains the Regulations for the Protection and Determination of the Status of Refugees in the Territory of the State of Guatemala.

Under article 43 of the Regulations, refugee status may not be granted to anyone who has committed a crime against the peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; anyone who has committed a serious non-political crime outside the country of refuge prior to his or her admission to that country as a refugee; or acts contrary to the purposes and principles of the United Nations.

Under the above-mentioned regulations, a national commission for refugees was set up whose main tasks are to decide on proper implementation of the normative provisions of the Convention relating to the Status of Refugees and the protocols thereto and to determine the legal status of refugees in Guatemalan territory.

The Department for Immigration is responsible for operational implementation of all matters relating to the determination of refugee status and for providing legal and inter-agency support for the Commission. The Department for Immigration interviews asylum-seekers and may request private individuals and national and international civil servants and institutions, both inside and outside Guatemala, to supply such reports, documents and opinions as it may consider necessary in order to verify the information it has collected. Once the verification process has been completed, it transmits its opinion, together with the corresponding file, to the Commission for analysis and settlement of the case.

Constitutional law and immigration legislation

Guatemala recognizes the right of asylum, which it grants in accordance with international practice (Constitution, art. 27).

Foreigners who have been granted refugee status by the competent authorities in accordance with the relevant international conventions to which Guatemala is a party are regarded as refugees (Foreigners Act, art. 19).

All matters relating to asylees, refugees and stateless persons are governed by the conventions, treaties and international arrangements to which Guatemala is a party, and when such persons have been duly classified they are deemed to be temporary residents for all immigration purposes. Individuals with such status must

request authorization in order to leave Guatemala, and they are warned that should they do so they will forfeit their refugee or asylee status, whichever applies. Upon losing their status, such individuals become subject to regular immigration legislation (Foreigners Act, art. 18).

The Department for Immigration is responsible for issuing identity, travel and residence documents to refugees, asylees and stateless persons in Guatemalan territory, following fulfilment of the legal requirements; it is also responsible for ensuring that foreigners who stay in Guatemalan territory do so in accordance with the relevant legislation (art. 4, item 3, of the Immigration Act, Legislative Decree No. 95-98). The Department for Immigration may prohibit or suspend the stay of foreigners in Guatemala for reasons of public order, national interest or State security. In order to suspend a foreigner's stay in Guatemala, the Department must issue a justified order (Immigration Act, art. 92).

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists.

What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

The Guatemalan Refugee Commission, to which reference is made in the context of the discussion of subparagraph (f) of the questionnaire, and the Department for Immigration must see to it that refugee status is respected and not abused. The Commission, in accordance with the Regulations for the Protection and Determination of Refugee Status in the Territory of the State of Guatemala may decide to expel a refugee solely for reasons relating to public order and national security. Article 27 of the Constitution stipulates that Guatemala may not expel a political refugee from Guatemalan territory who will then be sent to the country that is pursuing him or her.

Article 21 of the Regulations stipulates that a refugee may be extradited solely in accordance with the provisions of international treaties duly ratified by Guatemala. This provision is in keeping with article 27 of the Constitution, which indicates that extradition is governed by the provisions of international treaties.

Article 27 of the Constitution, again, specifies that Guatemalan citizens are not to be extradited for political offences, and are under no circumstances to be handed over to a foreign government, unless such action is required by international treaties and conventions in connection with crimes against humanity or violations of international law.

No noteworthy cases involving alleged terrorists have arisen.

Legislation on immigration

In Guatemala refugees are regarded as temporary residents since they are authorized to stay in the country for two years, for the purpose of engaging in a lawful activity on a temporary basis (Immigration Act, arts. 16-18).

It is the responsibility of the Department for Immigration to ensure that foreigners who stay in Guatemalan territory do so in accordance with the relevant legislation (art. 4, item 3, of the Immigration Act, Decree No. 95-98). The Department may prohibit or suspend the stay of foreigners in Guatemala for reasons of public order, national interest or state security. In order to suspend a foreigner's stay in the country, the Department for Immigration must issue a justified order (Immigration Act, art. 92).

Foreigners who break Guatemalan domestic laws by committing a crime during their stay in the country, are, when permitting them to stay in Guatemala is not in the national interest, as duly defined by the Department for Immigration, punished by being expelled and returned to their country of origin.

Article 245, chapter V, of the Constitution, indicates that organization and operation of armed groups not subject to the laws of Guatemala, is punishable.

Guatemala has also taken steps to prevent transnational crime and international terrorism, illicit drugs, money-laundering and arms trafficking, and illicit circulation of nuclear, chemical and biological weapons.

Decree No. 48-92, Act to Combat Trafficking in Narcotic Drugs, was adopted by Congress and has taken effect.

Decree No. 67-2001, Act Against the Laundering of Money and Other Assets, was adopted by Congress and has taken effect in Guatemala.

Guatemala is a signatory to the anti-terrorism conventions of the United Nations, which have already been ratified by Congress.

Congressional Decree No. 39-89, promulgated in order to regulate the unlawful bearing of arms, is in effect but is under consideration with a view to its amendment so as to improve the control and allotment of weapons.

Technical cooperation

The above information provides a summary of current legislation and in some cases describes the institutions responsible for overseeing and implementing the legislation. The focal point for implementation of resolution 1373 (2001) has taken the opportunity to consult the various entities that make up the Inter-Agency Commission on the thematic areas that have been giving rise to the most difficulties as regards implementation of current legislation. The replies received indicate that the areas in which technical cooperation would be of benefit are as follows:

- Immigration services and travel documents;
- Airport security;
- The link between drug trafficking and terrorism;
- Arms trafficking;
- Money-laundering.